

# Professional Ethics and the Role of the Court Interpreter

3d Edition

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Rule 984.4 of the California Rules of Court: “Professional conduct for interpreters,” the California Standards of Judicial Administration adopted by the Judicial Council of California for interpreted proceedings, the Code of Professional Responsibility that governs interpreters in the federal courts, and Hewitt, *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, R-167, (Williamsburg, Virginia: State Justice Institute, 1995) will serve as the basis for the following discussion of ethics and responsibilities. The guidelines provided here are intended to help you deal with difficulties that frequently arise in the courtroom. It is important to remember, however, that the judge is the final arbiter of what is appropriate in the courtroom, and ultimately you must defer to the judge. There are also many unwritten rules in every courtroom, and you, as an interpreter, have a duty to learn and obey them as well.

# ACCURACY

A court interpreter's best skill and judgment should be used to interpret accurately without paraphrasing, omitting, or editing.

At the beginning of any legal proceeding, the interpreter takes an oath swearing to "well and truly interpret" that proceeding, or words to that effect. The court interpreter actually has a twofold duty:

1. To ensure that the official record of the proceedings in English reflects precisely what was stated in another language by a non-English-speaking witness or defendant.
2. To place non-English-speaking participants in legal proceedings on an equal footing with those who understand English.

It is important to remember that the judge and/or jury will be relying entirely on the interpreted version of testimony to draw conclusions about the credibility of witnesses and the relative weight of testimony. Therefore, you must retain every single element of information that was contained in the original message, in as close to a verbatim form as English style, syntax, and grammar will allow. By the same token, the non-English-speaking witness should hear precisely the question that was asked, without simplification, clarification, or omission.

## ADDITIONS

***Embellishments*** It is important never to add anything to or elaborate on the message you are interpreting, not even for the sake of smoothing over choppy delivery. Your function as interpreter is not to make people sound more articulate or logical in the target language (the language *into* which you are interpreting) than they did in the source language (the language *from* which you are interpreting). Great caution should be exercised in choosing the appropriate terms and delivery, conserving at all times the speaker's style. If a witness gives a response that is inappropriate to the courtroom setting, such as "uh-huh" instead of "yes," you should refrain from converting the answer to more appropriate language. You should also abstain from adding polite forms such as "Can you please tell the jury?" when the statement was merely "Tell the jury." It is never a good idea to add filler words such as "well" at the beginning of a witness's response if not contained in the original answer or to add phrases like "I think," "probably," etc., if the source language message did not include them.

***Clarifications*** At times interpreters feel compelled to add linguistic information perceived to be "between the lines" or implicit in the witness's response. However, the information transmitted by the interpreter in the target language should accurately reflect the information received in the

source language. When rendering a simple “yes” as “yes, I did,” the interpreter is adding information that was not contained in the original response.

It is also inappropriate for interpreters to provide two possible interpretations of a word used by a witness for the sake of clarity or hypercorrection, or out of an abundance of caution. For instance, if a witness uses the Spanish word *gafas* (glasses), which is also used to mean sunglasses, don’t render it as “glasses or sunglasses.” If you provide a dual translation you are making the witness sound unsure when in fact the response may have been stated with certainty and conviction. Remember that you have other means at your disposal for handling such situations. Also keep in mind that it is the attorney’s responsibility to bring out all pertinent information during the examination of that witness.

As a general rule, the interpreter should remain unobtrusive during courtroom proceedings. Sometimes, however, it becomes necessary to intervene in the proceedings in order to ensure that communication is taking place and that the record of testimony is accurate. For the most part, stepping out of the role of interpreter and taking on the role of expert should be regarded as a measure of last resort, to be undertaken with great caution. **Under no circumstances should you act as an expert on matters outside of the realm of interpreting;** like any professional, you should excuse yourself from commenting on or interfering in matters that are not within your area of expertise. There are times, though, when because of your linguistic knowledge you are the only one who knows something is amiss. For example, if the witness uses the Spanish term *pie* (foot) to mean the entire leg, as is common among rural Latin Americans, you may step out of your role and say: “Your Honor, the interpreter would like to clarify that it is common in some segments of the Spanish-speaking population to use the word for ‘foot’ to designate the entire leg.”

If communication is breaking down and you can easily resolve the issue, and if the term in question is an essential part of an answer that others could not possibly understand without an explanation, then intervention is warranted. But if it is apparent that the attorney is able to clarify the situation through follow-up questions, you should not take any action.

***Calculations of weight, height, and distance*** A common linguistic problem for interpreters is the rendition into the target language of metric units of measure, weight, height, and distance, and other similar technical references. If the witness uses the metric system to describe the height and/or weight of an individual, or the distance traveled from point A to point B, or the distance between one person and another, the interpreter should simply repeat the figure in English, retaining the metric unit of measurement. **Under no circumstances should an interpreter become involved in the calculation of metric units of measure, or in the conversion of foreign monetary units into the equivalent American units.** If the monetary units or units of measurement are essential to the case, the attorneys have the ability and the choice to bring in an expert in that field, or to leave it to the court’s discretion by making the calculation themselves and entering into a stipulation that the court may accept or reject. The practice of retaining intact the unit of measurement used by the witness preserves the accuracy of the testimony for the record for whatever purpose counsel may wish to use it.

## OMISSIONS

**Editing** It is not within the purview of the interpreter to decide which portions of the testimony will be rendered into the target language and which portions of the testimony will not be rendered. An interpreter has the sworn duty to interpret everything that is said in court during the proceedings, be it by the court, a witness, or an attorney. This duty includes rendering questions and answers exactly as stated in the original language.

**Third-person references** It is common for people who use interpreters to preface their statements with phrases like “Tell him that . . .” and “Ask him if . . .” rather than addressing each other directly. If they do so, you must not edit out those phrases. If someone repeatedly makes third-person statements, ask the judge to instruct that person on the proper procedure.

**Word repetition** Repetition and redundancy are important factors in evaluating witness testimony. You should not add or subtract any words for the sake of clarity or expediency. Thus, if a witness says in the source language, “I, I, I didn’t see it,” you must say exactly that in English, not simply, “I didn’t see it.” Keep in mind, however, that certain repetitions in the source language are not to be rendered by repeating the word in English. For example, if a witness states in the source language, “She was crying and crying,” do not simply omit the repeated word and render it as, “She was crying.” A more appropriate rendition into English would be, “She kept on crying.” If a witness says, “He was talking and talking,” a more appropriate rendition into English would be, “He kept on talking” or “He talked a blue streak,” depending on the context in which the expression is being used. Rendering the source language repetition into the target language in the recommended manner does not constitute a change of meaning or an omission. The target language rendition is merely following the conventional form used by English speakers to express the message contained in the repetition.

Redundancies should also be preserved in the target language version. For example, when an attorney says, “Did you watch and observe him at all times?” you should not omit the redundant verb in the target language version.

**False starts** Many speakers, attorneys, and witnesses make false starts and then revise their statements. It is especially important in interpreting witness testimony that all such self-corrections be included in the target language version, so that the judge and jury can draw conclusions about how certain the witness is about the testimony, or how precise the witness is in choosing the words. Never correct any errors made by a speaker, no matter how unintentional they may be.

**Filler words** We are all aware of the fact that many people hold positions that require public speaking even though they have never had any actual public speaking training. It is also common knowledge that a person who is speaking extemporaneously, and wishes to gain some

time to think, or is unsure of what he or she is going to say, will often use filler words in order to avoid being obvious or to avoid dead silence. Attorneys often use filler words such as “now” at the beginning of their questions. Witnesses often respond with filler words such as “well,” “to be honest,” “quite frankly,” and other similar expressions. As the interpreter in a legal proceeding, you have the obligation to render into the target language all the filler words used by the speaker; it is particularly important to render them when interpreting witness testimony. Remember that this will help the jury to evaluate the credibility of the witness.

## CHANGES IN MEANING

It is common knowledge among interpreters that the meaning of words changes depending on the contextual environment. Cultural environment tends to lend words sometimes unexpected meanings as well. Thus, if we find the word “issue” in the context of a Last Will, it is in reference to the children begotten by the person or persons making the will. If, however, we find the word “issue” when talking about a magazine, it refers to the edition in question. There are times when a particular group of people within a larger linguistic community adopt or borrow words with one meaning and use them to mean something different. The new meaning may be limited to a particular region or may be widespread. For instance, it is not uncommon for Spanish speakers from certain areas of Mexico to use the word *trueno* (thunderclap) for gunshot. It is also known that in some Spanish-speaking countries the word *cartera* could mean wallet while in others it could mean purse. Such occurrences could be a nightmare for the interpreter and should not be rendered into the target language without exercising much caution. It is advisable to consider the context in which the word is being used to determine the meaning; if all else fails, ask the court’s permission to clarify the meaning by asking the witness.

## REGISTER

You must never alter the register, or language level, of the source language message when rendering it into the target language for the purpose of enhancing understanding or avoiding offense. For instance, if the attorney asks, “What did you observe the subject to do subsequently?” you should not say in the target language, “What did you see him do next?” You should not try to bring the question down to the witness’s level, nor should you intervene and say you don’t think the question is understandable to the witness. **If the witness does not understand the question, he should say so. It is not the interpreter’s job to speak up for him.**

It is important to remember, when interpreting a witness’s testimony before a jury, that the jury will draw certain conclusions regarding the witness’s sophistication and intelligence, based on word choice, style, tone, etc. It is your job to make sure the jurors have as much information in that regard as a native speaker of the target language would have in order to judge the witness’s credibility.

**Idiomatic expressions** Idioms are phrases whose meaning is not merely the sum of the words contained in them. Examples of English idioms are “you’re welcome,” “to run the gamut,” and “so much the better.” You should always strive to translate using an equivalent idiomatic expression in the target language. There are some excellent books that could prove to be of great help to you in understanding and learning new expressions.

**Proverbs** Proverbs are popular sayings or useful thoughts that express a truth based on common sense. There are times when interpreters are faced with the difficult task of interpreting judges’ or attorneys’ comments that are sprinkled with the wisdom of these popular sayings, and they find themselves hard - pressed to transmit the message intended by the proverb. **You should avoid interpreting a proverb literally**, but should strive to find a proverb in the target language that carries the same message. Most cultures have a rich tradition of popular sayings; taking the time to research them will prove valuable to you.

**Figurative language** Metaphors are descriptive expressions that portray one situation in terms of another, such as “he tore his hair out trying to solve the problem,” or “she was caught red-handed.” You must always try to find an equivalent metaphor in the target language; do not translate literally. Remember that the primary focus in interpreting is conveying *meaning*, not translating individual words.

**Nuances (word choice)** Nuances of meaning are critical in courtroom testimony. One study found that subtle changes in word choice significantly altered a witness’s recollection of events. When a key word in the question was changed (“About how fast were the cars going when they hit/smashed/collided/bumped/contacted each other?”), subjects who were asked the question that contained the term “smashed” tended to increase their estimate of the speed and recalled seeing broken glass when in fact there was none. Thus, you must be very careful in selecting target language terms to make sure that they accurately and precisely reflect the source language meaning.

**Expletives (obscenities)** If a witness uses foul language or says something that might be damaging to the case, you should not edit out the offending terms; interpret exactly what you hear, conserving the original meaning. Remember that the jurors will make judgments about the honesty and credibility of this witness on the basis of his or her manner of testifying. They should not be at a disadvantage because they do not know the source language. For cultural reasons, obscenities are particularly difficult to translate directly; a word-for-word translation may be meaningless in the target language. You should look for the closest equivalent in the target language, striving to elicit the same reaction from target language listeners as the original message would elicit from source language listeners.



## FRAGMENTARY STATEMENTS

Courtroom testimony does not always proceed logically, as if following a script. Witnesses often speak unclearly because they have told their stories many times before and assume that everyone knows what they are talking about (e.g., “I went to the . . . you know . . . and there was . . . it was there”). Such vague and ambiguous statements are difficult to translate to another language because more information is needed to choose the proper pronouns, prepositions, and verbs. Nevertheless, you must render as fragmentary a version as the original was, without inserting any additional information to clarify the statement.

***Nonsensical testimony*** It is particularly difficult to interpret the testimony of a person who is highly excited, may have mental problems, or speech problems, and does not necessarily make sense. It is important for the interpreter to make every effort to state exactly what the witness said, no matter how illogical or irrelevant it may be. Sometimes this is very difficult because of ambiguities or incomplete phrases uttered by the witness; in such cases, you should inform the court that you need to clarify the witness’s statement with the witness before proceeding to interpret it. **But under no circumstances should you edit, omit, or add to what the witness stated.**

***Nonresponsive testimony*** As a court interpreter you have the responsibility of rendering nonresponsive answers given by a witness as accurately as any other response. You should leave it up to the attorneys to make the appropriate motions or requests to the court.

## VOICE TONE AND EMOTIONAL OVERTONES

***Emotions by witness or counsel*** Triers of fact need to have a clear understanding of emotions such as anger, fear, shame, or excitement that are expressed by witnesses.

Humans convey their emotions not only in words but also in facial expressions, posture, tone of voice, and other manifestations. These nonlinguistic means of expression are very closely tied to culture and language, so when people don’t speak the same language they may misunderstand the emotional content of a message. The court interpreter has an obligation to convey emotions in a way that seems natural in the target language, rather than merely repeating words like an automaton. Thus, when an aggressive attorney is bearing down on a witness for the sake of intimidation, you should be equally forceful. And when the witness answers questions in a timid way, you should retain that timidity in every aspect of the target language rendition. However, you may have to convey the emotions expressed by the witness in a slightly attenuated form. If you were to burst into tears or scream out loud exactly as the witness did, it would make a mockery of the judicial process. If a witness expresses emotions in such an overt way (and the manifestations of these emotions are the same in the source language and target language cultures), the judge and jury can observe the witness’s behavior and draw their own conclusions from that; **there is no need to mimic the witness.**

**Emotions by interpreter** It is imperative that you keep your own emotions in check; the only reactions you should express are those of the witness you are interpreting for. This may be very difficult at times, such as when graphic photographs of crime scenes are shown to a witness, when a witness unintentionally says something funny, or when a witness is clearly lying. Nonetheless, you should strive at all times to reflect only the reactions of the parties you are interpreting for. The jury should be judging the credibility of the witness, not that of the interpreter.

## NONVERBAL COMMUNICATION

**Gestures by witness** Hand motions or gestures are often used by witnesses for expediency purposes, to convey a message that they are unable to transmit verbally due to nervousness or lack of eloquence, or because this form of nonverbal communication is culturally linked to language. Surely you must have heard someone say, “So-and-so speaks with her hands” or “I can’t speak if my hands are tied.” Nonverbal messages pose great difficulties for an interpreter, particularly one who comes from a culture that commonly uses these means of communication. If you try to reproduce a gesture that a witness makes, there is a danger that you might mischaracterize the testimony (pointing to a slightly different part of the body, for example, or making a gesture that has a different meaning in the target language culture). If a witness includes a gesture in the testimony, refrain from reproducing it; simply interpret the witness’s words (e.g., “He hit me here”). The judge and jury can see the witness themselves.

Caution: You **should not** take it upon yourself to make a record of the gestures made by the witness or body part pointed to by the witness by saying, “The witness is pointing to his left shoulder.” It is up to the attorney to describe any physical movement made by the witness so that the transcript will accurately reflect it.

**Gestures by interpreter** You must refrain from making any gestures or hand motions that may tend to taint the testimony of a witness, such as rolling your eyes in frustration when a witness gives a nonresponsive answer or shrugging your shoulders to indicate it’s not your fault the witness gave only a partial answer to the question. It would be inappropriate for you to raise your middle finger to accompany your interpretation of a witness’s expletive (even if the witness did it during testimony). You must remember at all times that the role of the interpreter is to assist so that the proceedings can take place as if no language barrier existed and in the most unobtrusive manner possible. You must strive to attract as little attention to your presence in the courtroom as is humanly possible. It is the duty of the trier of fact to evaluate the witness’s testimony and credibility based on the *witness’s* manner and conduct at trial, not the interpreter’s.

## AMBIGUITIES

As discussed earlier, words change their meaning depending on the context. Sometimes the meaning of a word is ambiguous because the listener does not have enough contextual

information. The English pronoun “you,” for example, can be either singular or plural, and the speaker may not clearly indicate which meaning is intended. Moreover, some terms may require more information to be translated from English into another language. For example, the English word “cousin” could refer to either a male or a female, but in many languages that kinship term is gender-specific rather than generic. As an interpreter, you must clarify any ambiguities before interpreting a message. Be alert to ambiguities that commonly occur in English, and be prepared to ask for more information when you need it.

***Conservation or clarification of ambiguities*** Ambiguities may be intentional, however, and you should strive to retain them if the target language allows. It may be possible, for example, to interpret the question “Where did the car hit you?” into the target language without clarifying whether the questioner is referring to the location of the accident or the part of the witness’s body. On the other hand, attorneys will often ask this deliberately ambiguous question: “Did you have anything to drink in the car?” But the target language may require that the interpreter say either “Did you drink anything in the car?” or “Was there anything to drink in the car?”

If you cannot retain the ambiguity in the target language but the context makes clear which meaning is intended, you should clarify it in your rendition. But if you are not certain of the meaning or are aware that the ambiguity is deliberate, you must inform the court that you cannot render the target language version without first clearing up the doubt. It is not the interpreter’s job, however, to correct the attorneys’ questions. If a question is vague or ambiguous, the witness’s answer also will be ambiguous, whether the language is English or any other. Since the problem is not language-related, you should not interfere. It is the duty of opposing counsel to object to the question; if there is no objection, go ahead and interpret the question.

## DOUBLE NEGATIVES

An experienced interpreter is well aware that a question containing a double negative will elicit a vague response from the witness. For example, if the attorney asks, “Isn’t it true that you didn’t know Mr. . . . ?” a negative answer may mean “No, it is not true” or “No, I didn’t know Mr. . . . !” **It is not your responsibility to tell counsel that the question will elicit a vague response nor to clarify the answer by adding any element not contained in the original reply.** You must render the question in the witness’s language as asked in the source language and interpret the reply as simply and briefly as the witness’s response was. Opposing counsel has the ability to object to the form of the question, or the court may, if it wishes, instruct counsel to rephrase the question.

There are times, however, when double negatives cancel each other and it is acceptable to render them as if there were no negative at all. A prime example can be found in jury instructions in which the phrase “it is **not uncommon** for two people witnessing the same event . . .” often stumps interpreters. It would be acceptable to render the phrase affirmatively as “it is **common** for

two people . . . .” Extreme caution is recommended in making these changes, which should be limited only to situations in which the target language does not have an equivalent negative prefix, or the word does not admit the prefix without sacrificing fidelity to the structure or natural flow of the target language.

## READ-BACK, REPETITION OF QUESTION/REPLY

In your capacity as court interpreter, you may be the only bilingual person in the courtroom. This is one reason why interpreting in teams is preferable. You, as the official interpreter bear a very important responsibility, as other people are depending on you to understand what is being said. Therefore, there is a relationship of trust that must be preserved at all costs. Whenever you need to address someone in a language other than English, it is important that you inform the court of what you are about to do, so that no doubt or suspicion is aroused as you engage in a conversation that others cannot understand.

***Read-back*** If during witness testimony you should find that you may not have understood a question asked by counsel, or that you suddenly forgot either part of the question, the entire question, or the precise style and wording used to pose the question, you should request permission to have the question read back or repeated. Whenever any problem arises as you are interpreting, the proper protocol is to address the judge, explain the problem, and obtain permission to resolve it (e.g., “Your Honor, the interpreter is unable to hear the witness. Will the court please instruct the witness to speak up?” or “Your Honor, may the interpreter have the question read back from the record?”).

***Repetition*** The requirement to interpret everything that is said in the courtroom places a great demand on the interpreter. Sometimes you may not know a term that is used, or you may not hear what someone has said. **It is very important that you not guess at what might have been meant, bluff your way through, gloss over problem terms, or omit unclear portions of a message. Always inform the judge of the situation and request permission to resolve it.** If you are unsure of what a witness has said, either because you did not hear or because you have forgotten, do not guess at it or just leave out that part. You have an obligation to interpret everything the witness has said, so if you have any doubt, you must ask the court’s permission to have the witness repeat the answer: “Your Honor, the interpreter would like to request that the witness be instructed to repeat her answer.”

## ERRORS

***Attorney errors*** It is not unusual for attorneys, concerned about the development of a case and thinking about the next series of questions, to address a witness by the name of another witness, or even to switch to their client’s own name. It is also common for attorneys to state an erroneous date when asking a question, particularly when there are several dates involved. **You must never**

**translate using the correct name or date nor bring the error to counsel's attention.** Your duty is to render the name and/or date exactly as stated by counsel. The error will eventually be discovered, and even if it is not, you must **never interfere** with the proceeding. It will be clearly reflected on the record what caused the confusion, if any.

***Second interpreter errors*** During the performance of your duties there will be many occasions when you will be working in a case requiring a witness interpreter. If you hear your colleague make a **serious material** mistake (e.g., using the word “revolver” when the witness used the word for “knife”), you should, at the earliest opportunity available, bring this error to the second interpreter’s attention as discreetly as possible and allow him or her to make the appropriate correction without your causing any disruption to the proceeding. Be careful to exercise as much tact and diplomacy as possible in bringing the error to the attention of the second interpreter. Should your colleague fail to correct the mistake, then and only then should you bring it to the attention of the court. Preferably, this should be done outside the presence of the jury.

***Correction of own errors*** If at any point you realize that you have previously made an error in interpretation, you should correct the record as soon as the error becomes apparent to you. Thus, if subsequent testimony indicates that a word with several possible meanings was misinterpreted the first time it came up, state at the first opportunity: “Your Honor, the interpreter would like to note for the record that the term ‘thunder’ in the witness’s earlier testimony should actually have been interpreted as ‘gunshot.’”

## CLARIFICATION OF UNFAMILIAR TERMS

Never guess about an unfamiliar term. You should always carry a dictionary with you, and if the word or phrase you do not know is a common term, you may ask the court’s permission to look it up. The standard protocol for doing so is to state, “Your Honor, the witness has used a term that the interpreter is not familiar with, and he requests permission to consult the dictionary.” Don’t simply grab the first equivalent you see in the dictionary, however. Dictionaries are handy reference tools but should not be relied on exclusively. If none of the terms listed seems appropriate, ask the court’s permission to inquire of the witness or whoever used the problem term. Sometimes, if a second interpreter is present, you may also wish to request permission to consult with your colleague, who may not be under as much pressure as you are and as a result may be able to think more quickly and clearly at the time. The second interpreter may be familiar with the term that was unknown to you due to his or her background. As long as you conduct yourself in a calm and professional manner, you will retain your credibility and the confidence of the parties who are using your services. It is important to remember that the interpreter should never engage in any independent conversation with a witness on the stand, as that would arouse the suspicions of those present who do not understand the language in question. Therefore, if you need a clarification, always inform the court and obtain the judge’s permission to clarify something with the witness: “Your Honor, the witness has made an ambiguous statement and the interpreter needs to clarify it

before she can proceed.” Similarly, you should not address an attorney directly about a problem with a question; always communicate through the judge.

## CULTURALLY BOUND TERMS

Certain “culturally bound” terms, that is, terms whose meaning is highly dependent on the culture associated with the language, pose a particularly difficult dilemma for the interpreter because it is hard to find words in the target language to convey the meaning. The same object or event may have different connotations in different cultures. Names of meals, kinship terms, units of measurement, and forms of address are examples of this phenomenon. If no direct equivalent of a given phrase is readily available in the target language, it is usually better to leave it in the source language without translating it or volunteering an explanation. The attorney can elicit an explanation from the witness by means of a follow-up question if it is important that everyone understand the term. In many cases, the meaning of the term may not be relevant enough to warrant an explanation. (If you do use a foreign language word or phrase on the record, you should jot it down to provide for the court reporter afterward, since the court reporter is not likely to know how it is spelled. This also applies to non-English names.)

## REPETITION OF ENGLISH USED BY WITNESS

Bear in mind that you are interpreting testimony for the written record, and the court reporter is listening only to you, not to the witness. Therefore, if the witness gives an answer in English, or states a name that everyone can understand without needing any interpretation, you must still repeat it for the record.

## QUESTIONS FROM WITNESS

Frequently a witness who does not understand the interpreted question will address a question to the interpreter to clarify the matter. For example:

Attorney:     Now, were you there on that date?

Witness:     Does he mean, was I at home?

**Do not take it upon yourself to answer the witness’s question on your own; simply interpret the question into English.**

## IDENTIFICATION OF INTERPRETER STATEMENTS

When you make a statement on the record in your capacity as interpreter, it is important to pause when switching roles to make it clear that you are now speaking as the interpreter and are no longer rendering the witness’s testimony. In formal courtroom proceedings, it is common practice

for interpreters to refer to themselves in the third person so it is clear in the written record that they are speaking in their own capacity and not translating the words of the witness. In less formal settings outside the courtroom (e.g., in depositions), the interpreter can simply pause and change tone of voice slightly and then speak in the first person: “I believe the witness was referring to the interpreter.”

Caution: It is important to emphasize that it is the attorney’s function to clear up misunderstandings with follow-up questions, and the interpreter should not usurp that role. The only situation in which you as the interpreter should take it upon yourself to break in and provide an explanation is when communication breaks down and it is apparent from the questions and answers that false assumptions are being made due to cultural misunderstandings. In such cases, you are the only one who has the specialized knowledge and training to realize that a misunderstanding is taking place. In short, be very cautious about intervening in the process.

## CHALLENGES TO INTERPRETATION

Perhaps one of the greatest ordeals an interpreter must face is a challenge from a bilingual party who disagrees with the interpretation. It is important to remember that interpreting is an exacting profession and cannot be error - free. Frequently the interpreter is not the only person in the room who knows both the source language and the target language, and it is easy for people who are not under the severe pressure of interpreting to pick out mistakes. Sometimes a challenge comes from an attorney who has prepared the witness and knows what the testimony ought to be. Or it may come from someone who hears a familiar word and thinks he or she understood the answer better than the interpreter did.

If you are challenged, respond to it in a professional manner; don’t regard it as a personal affront. If you agree with the correction because you were indeed wrong, then you should correct the record. If the proposed correction is unacceptable to you, you should stand by your original version. You may explain your reasoning if necessary, but you should not be on the defensive. In the end, the judge has the final word and you must abide by it. If you are calm but assertive when you are in the right, and if you obligingly correct errors when you are wrong, you will retain the confidence of those who are using your services and will be subject to fewer challenges in the future. But because language is so subtle and subjective, there are no black-and-white answers, and challenges will remain a fact of life for court interpreters. Indeed, it is part of the attorney’s function to object to testimony (or the interpretation of it) that does not favor the party he or she represents, and challenges of the interpretation are part of the normal course of events in the courtroom.

## DUTY TO WITNESS

When interpreting for a witness who is not a defendant in the case at bar, you are under the same obligation to interpret simultaneously for the witness all objections and all other statements made

during the proceeding, as you would during the defendant's own testimony. You should keep in mind that the interpreter's presence is not only to benefit the attorneys, the court, or the jury, but also places the non-English-speaking witness on equal footing with any English-speaking witness. However, there may be times when, for whatever reason, the court may instruct you not to interpret the objections for the witness. If that occurs, you must comply with the request, keeping in mind that the judge has the last word in the courtroom.



# IMPARTIALITY

A court interpreter should disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case. An interpreter should not engage in conduct creating the appearance of bias, prejudice, or partiality.

This statement is self-explanatory, but it is worth emphasizing the term “appearance” here. Even though you may not feel that you have any bias or partiality, if other people perceive that you are biased or partial, your role as interpreter is compromised. Therefore, you must strive to avoid any situation in which it might appear that you favored one side or the other in a case.

## CONFLICTS OF INTEREST

***Real conflicts*** A conflict of interest exists when the interpreter has a personal interest in the outcome of the case, is a friend or relative of one of the litigants, or stands to benefit financially from the results of the case because he or she is a partner or associate of one of the parties in the matter before the court.

***Potential conflicts*** There may be times when the evidence presented, whether oral or pictorial, may offend your personal sensitivities or be of such graphic nature that you may be incapable of controlling your emotional reactions. If you find yourself in such a position, you **should immediately** inform the court. “Any condition which impinges on the objectivity of the interpreter or affects his professional independence constitutes a conflict of interest” (*Los Angeles Superior Court Interpreters Manual*, 1981, p. 7).

There may also be a possible conflict of interest if you are acquainted with or related to a potential juror or a juror already sitting in the case at bar.

Whenever any of these conditions exist, you **should not accept** the assignment. To accept it would harm your professional reputation and would create a bad image for the entire profession. If after you have accepted an assignment you become aware of a conflict of interest, you **should** immediately inform the court; the judge will determine whether a conflict of interest exists and whether you should be disqualified.

## PARTIES IN THE CASE

When you are interpreting for the defendant, you may be sitting next to each other for days or even weeks at a time, and there will inevitably be an appearance of a bond between you. Similarly, you may be interpreting a given witness's testimony for a long time. Even though you feel no affinity whatsoever with the defendant or witness, that person's testimony, as interpreted by you, may have less credibility with jurors or other parties if they feel that you might be coloring the testimony or interpreting it in a biased way. That is why it is so important for you to refrain from having any independent conversations with the witness on the stand or with the defendant before and after court sessions and during breaks.

## PRIOR INVOLVEMENT IN THE CASE

If you have performed services for one party in a case, you should not subsequently perform services for another party. It is unacceptable for the same person to interpret for both the defense and prosecution. Doing so would seriously undermine the relationship of trust that must exist between interpreter and client (imagine an interpreter performing services for both the defendant and the victim in a rape case, for example).

## GIFTS AND GRATUITIES

Never accept gratuities or gifts of any kind from anyone for whom you have interpreted. If such a gift is offered, explain politely that you are paid by the court or interpreting agency for your services and are not allowed to accept any gifts from any of the parties in the case. This does not preclude you from collecting your honorarium in a civil case in which you were directly contracted by one of the parties.

## INTERPRETER NEUTRALITY

As an interpreter you are not an advocate for non-English speakers, nor is it your role to teach them how to behave. Furthermore, you must not make value judgments about the language or demeanor of the parties you interpret for. If the witness uses incorrect grammar or vulgar speech, or wears inappropriate dress, you should interpret the testimony just as faithfully as you would that of any other witness. **You should not, for example, roll your eyes or use a sarcastic tone to convey to others that you consider the testimony improper or untruthful.**

The presence of two or more interpreters using electronic interpreting equipment at a multi-defendant trial is a particularly effective way of setting interpreters apart as having a neutral role in the proceedings. As reinforcement of such, the trial judge should explain to

all the parties and potential jurors that the interpreters are nonpartisan and should not be considered as part of either the defense or of the prosecution, no matter who they provide interpreting services for during the case.

**Personal opinions** During the course of their daily duties, interpreters have the opportunity to interact with various attorneys and judges and to see and hear them argue their cases or pronounce judgments and findings. It is difficult for an interpreter not to form opinions about the attorneys' abilities, or the judges' fairness or lack thereof. It is also difficult for an interpreter not to form opinions regarding the guilt or innocence of defendants or the credibility of witnesses. It is of utmost importance for you to **keep those opinions in check** and try to avoid even thinking about such matters. It is also inappropriate for you to express any such opinion in public, to defendants, defendants' family members, or members of the bar.

*Expressly Asked For:* There may be times when an attorney in the case will approach you for comment regarding the credibility of a witness who just finished testifying, or in connection to the case in general, or even as to the defendant's performance on the witness stand. The attorney might even ask you to rate his or her own performance during arguments. Remember that the attorney may be seeking a lay opinion regarding the matter in order to assess the jury's reactions to the testimony and/or arguments in order to evaluate what their thinking might be. You should politely **avoid expressing an opinion** lest you compromise your professional detachment and impartiality. You may wish to reply by saying, "I think that it is up to the jury to determine that," or "I don't know how the jury will view that," or by utilizing some other evasive means of responding to the question.

*Offered Without Being Asked:* You should **avoid at all costs expressing an opinion** about a case pending before the court. You should never offer your personal opinion about any matters related to any case to which you have been assigned as interpreter.

**Members of the jury** Sometimes a juror may approach you and ask about your work as an interpreter, or a witness may wish to compliment you on a job well done. Or you may become acquainted with court and law enforcement professionals with whom you work every day, and it will be tempting to chat with them during breaks. Any one of these seemingly innocent conversations can lead to a perception of bias. The way to solve this problem is to politely walk away without getting involved in any conversation. After the trial is over, or outside the courthouse, you are free to establish whatever kind of relationship you like with them (as long as they are not serving as jurors on a case in progress in which you are interpreting).

After the jury has rendered a verdict, the attorneys may, if they wish, speak to those jurors who are inclined to answer questions regarding the reasons for their decision or lack thereof. Although you may wish to satisfy your curiosity, **you should not become involved in those conversations.** After all, you are not a party to the case and **should not display any interest in the reasons for the outcome.** Notice that the judge never participates in those inquiries.

# CONFIDENTIALITY

A court interpreter should not disclose privileged communications between counsel and client. A court interpreter should not make statements about the merits of the case during the proceeding.

Once again, this statement is self-explanatory, but it bears additional discussion.

## ATTORNEY-CLIENT PRIVILEGE

It is a long-accepted principle of our legal system that anything said between client and attorney is to be kept confidential. If you interpret an attorney-client conversation, you are bound by the same confidentiality rule. The only circumstance under which you may reveal the contents of such communication is when unethical practices are going on. Then you should inform the court of the problem.

In addition, if you participate in the preparation of a case by the defense or the prosecution (interviews with witnesses etc.), you must not reveal to anyone the nature of the communications you interpreted. You may not be used as a witness against the defendant if you interpreted attorney-client conferences.

## PROSECUTOR-WITNESS INTERVIEWS

Although legally, attorney-client privilege does not apply to communications between the prosecutor and his/her witnesses, as a matter of public trust, an interpreter **should not reveal** to anyone the contents of such communications. Should you ever be called upon to testify about such matters, you should inform the court of your fiduciary duty to keep the information confidential. Unless ordered by the court to answer questions regarding those conversations, you should make every effort to avoid doing so.

## IN CAMERA HEARINGS

You should keep in mind at all times that any information gained by you during the course of your daily duties is confidential. You may be called upon to interpret for a witness or for the court in an **in camera** hearing. The official record of those hearings is sealed and does not form part of the public record. You are bound by your professional ethics to respect the confidential nature of

those proceedings and reveal nothing regarding the contents of the hearing.

## GRAND JURY PROCEEDINGS

Grand jury investigations are of such secret nature that even when an indictment is handed down, the courtroom must be vacated by everyone and only the judge, the prosecutor handling the case, and the members of the grand jury may remain in the room. Interpreters are occasionally called upon to interpret for a witness who has been called to testify before the grand jury. Again, remember the secret nature of these proceedings and **reveal nothing** to anyone regarding the questions asked or the testimony heard by you during those hearings.

## EVIDENTIARY MATERIALS

Evidentiary materials are often seen or heard by interpreters long before they are presented in open court and admitted into evidence for the jury's consideration. These materials may cover a wide range of items and involvement on the part of an interpreter and may be as simple as a mug shot spread or as complex as a confession or audio or videotapes recorded under cover, in the presence of a suspect under arrest, or by a witness being interviewed by the police. You **should not** comment to anyone regarding the contents of these materials, for doing so may compromise you, jeopardize due process, and harm innocent people.

In many counties the task of assigning the translation of documents or transcription and translation of audio or videotapes rests upon the person responsible for securing court interpreters. In other counties the request may come directly from the court or one of the attorneys in the case.

You should approach the task entrusted to you with the same care and professional considerations you use when interpreting in court, keeping in mind accuracy, register, technical language, etc. Remember that you may be called upon to testify about your work and your qualifications to perform it. **Timeliness** in the delivery of any translation or transcription and translation entrusted to you is of utmost importance. **Tape transcription and translation require highly specialized skills and equipment and such assignments should not be accepted unless the interpreter is qualified and equipped to carry out the tasks to the highest professional standards.**

*Translation of documents* As a court interpreter you may be responsible for the translation of documents. These documents often are material evidence that may, at some point, be used in court. In the performance of these duties, you will become privy to information that has not yet become public record. You should respect the confidential nature of the duties you have been assigned and not comment upon the contents of the material you are working on.

***Transcription and translation of tapes (audio and video)*** Transcribing and translating tapes that have been recorded by law enforcement is a laborious, tedious, time consuming and an exacting task. Interpreters frequently undertake this responsibility without full knowledge of the difficulty of the material to be transcribed. **You should always listen to the audiotape or watch the video tape before making a commitment.** The quality of the recording and the number of people involved in the conversation will be a determining factor in the difficulty of the task to be undertaken. Remember that videotapes take twice as long to transcribe as audiotapes. Body wires frequently pick up extraneous conversations and sounds that interfere with the audibility of the parties. While a variety of transcribing equipment is available for audiotapes there is no special equipment readily available to assist you in transcribing videos. **You should never undertake the simultaneous interpretation of more than a few foreign language words contained in a tape for the record. To do so is not only impractical, it is extremely risky for it is impossible to guarantee accuracy.**

Again, you must keep in mind the confidential nature of evidentiary materials and you **should not reveal** to anyone the contents of the tapes.

## NEWS MEDIA AND THE PUBLIC

There may be times when an interpreter is assigned on a case which, because of its very nature or because of the personalities involved, may be considered what is commonly known as a high profile case. These types of cases often attract a great deal of media attention. The media, in their efforts to gain information which otherwise may not be available, may wish to obtain an interview with the interpreter. You should avoid granting an interview or making any comment to the media about a pending case. You should be aware that your comments may be edited in such a way that they bear no resemblance in publication to your original words, and your comments may become the basis for controversy. As a general rule, it is best to limit your comments, if any, to interpreting techniques and this should be done at a later date long after the case is over. Another way of handling the media's inquiries is to recommend a colleague who is not involved in the case at bar to discuss the professional aspects of interpreting. As a matter of fact, even after a verdict is rendered, if the case goes on appeal you are still under the obligation not to discuss it until a final decision is handed down.

Court proceedings are usually open to the public (except for juvenile matters such as dependency court and juvenile delinquency proceedings or closed sessions from which the public has been specifically excluded). The public attending court proceedings may, at some point, approach you to inquire about cases before the court. As a general rule, you should limit your conversations with the public to referring them to the bailiff or the attorney handling the case. **Courteously but firmly avoid engaging in any discussion that might tend to involve your personal opinions about the matter in question.**

# GIVING LEGAL ADVICE

A court interpreter should not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.

The boundaries of the interpreter's role preclude dispensing legal advice or providing legal representation. These functions fall within the purview of the attorney, a paralegal, and perhaps the judge, but never the interpreter, whose sole responsibility is to serve as a medium of communication.

## QUESTIONS BY DEFENDANTS

It is clear, then, that the court interpreter should refrain from usurping the role of the attorney. Nonetheless, the situation is not always clear-cut; defendants often ask interpreters questions about the proceedings during breaks, or even in open court. If the defendant is speaking on the record, of course, you must simply interpret the question into English. But questions asked off the record pose a subtler dilemma. Sometimes there is a fine line between practicing law and defining words in linguistic terms, or simply giving information that any layperson might dispense. For instance, if a defendant wants to know what the charge of burglary means, the definition of such a complex legal concept is beyond the expertise of an interpreter and should be left to an attorney. On the other hand, if a non-English speaker asks you where the probation department is, you can answer that question (assuming you know the answer). Thus, if you feel confident that you can correctly answer a defendant's question without dispensing legal advice, you may do so; but if you have any doubts at all, you should advise the defendant to ask his or her attorney or the judge.

## QUESTIONS BY WITNESSES

After being interviewed by counsel through an interpreter, a witness may feel comfortable asking the interpreter questions regarding the consequences of testifying or may suddenly feel reluctant about giving testimony and seek the advice of the interpreter about the possible consequences of refusing to testify. It is not within the purview of the interpreter to answer those questions. Counsel should be advised of the questions or misgivings expressed by the witness, or the witness should be referred to the attorney who called that witness so that counsel can answer those questions.



## QUESTIONS BY THE DEFENDANT'S FAMILY MEMBERS

During the proceedings in a case, many times the defendant's family members are present in court and may ask the interpreter information regarding the charges, the consequences, or possible options. You **should always refer the questions to counsel** and avoid providing information that may not always be accurate. Remember that it is up to the attorney to determine what and how much information should be provided to the defendant's family members. However, don't hesitate to give them the next appearance date, if any, and the new location if a change of location was made (if you remember them).

## REFERRALS

If the defendant is not represented by counsel, you should not express any opinions as to whether or not an attorney is needed or as to who would be a good one. You should never function as an individual referral service for any attorney or attorneys. If this issue arises, you should refer the individual to the local county or city attorney referral service in civil matters, or to the Public Defender's Office in criminal matters.

# PROFESSIONAL RELATIONSHIPS

A court interpreter should maintain a professional relationship with court officers, parties, witnesses, and attorneys. A court interpreter should strive for professional detachment.

## INTERPRETER AS OFFICER OF THE COURT

There are two basic reasons for having an interpreter present in a court case: to enable the defendant to understand the proceedings and to enable the court to understand all non-English speakers who address the court. Therefore, your “clients” are all of the protagonists in the court proceeding: the defendant and defense counsel, the prosecution, the judge, the clerk and other court personnel, and all witnesses who testify. No matter whom you are interpreting for at a given moment, you are an officer of the court, a neutral participant in the process. You are not part of the defense “team” if you are interpreting for the defendant, or part of the D.A.’s “team” if you are interpreting for the prosecution.

## UNOBTRUSIVENESS

As an interpreter, you must be mindful at all times that communication is the primary objective of the interpretation process. You are not there to show off your knowledge or to impress people with your abilities. You should not engage in theatrics, drawing more attention to yourself than to the witness by exaggerating the emotions expressed by the witness. As stated previously, you should avoid personal displays of emotion, subjective involvement, or social conversation. While it is important for you to establish a rapport with the people you are interpreting for, you should not become too involved with them.

One way to convey this professional detachment is to call people by their surnames (Mr. Jones, Ms. Smith). If there is a formal form of address in the target language (e.g., *usted* in Spanish), you should use it at all times, regardless of the age or status of the witness or defendant. It is important to note that the interpreter should observe the cultural norms of the target language in maintaining this formal behavior. For example, it would be appropriate to address a child witness with the informal pronoun in Spanish, as the formal one is rarely used with children. However, if an attorney addresses a witness by first name, or treats the witness informally in some other way during questioning, you should not change the interpretation of the question to make it more formal or polite.

## INTERPRETER FATIGUE

Section 18.1 of the California Standards of Judicial Administration effective January 1, 1999, provides that prior to any interpreted proceeding the interpreter should be given the following instruction, among others: “Inform the court if you become fatigued during the proceedings.” Nancy Festinger, the Interpreter Coordinator for the United States District Court, Southern District of New York, eloquently described our role as follows:

We perform mental gymnastics, jumping from an attorney’s constitutional argument in a motion to suppress, to a drug addict’s slurred explanation, to a witness’s deliberately elusive answer, to the socio-psychological jargon of a probation report, to the small print of a statute, to a judge’s syntactically convoluted charge to the jury often, all in the space of a few hours. We repeat patent nonsense, veiled (or not so veiled) bullying, impassioned pleas, righteous indignation, stern admonishments, nit-picking questions, ironic remarks, barbed answers, tearful confessions, and through it all we must pay unflagging attention, betray no sign of annoyance or incredulity, all the while maintaining composure, impartiality and linguistic fidelity.

Ours is an exacting role, both physically and mentally demanding, and therefore requires an awareness of the proper working environment. A true professional will strive for the achievement of conditions that insure optimum performance and accuracy. Because interpreting is such a precision-laden task, it is imperative that you remain mentally alert at all times. Frequently judges will interrupt proceedings to give the court reporter a break, because they know that having an accurate record depends on having an alert reporter. They sometimes forget, however, that another important way to protect the record is to make sure that the interpreter is well rested and alert.

**You, as an interpreter, have an obligation to ask for a break whenever you feel that fatigue is beginning to interfere with your accuracy.**

**Team interpreting** Interpreting professionals recommend that simultaneous and consecutive interpreting for court proceedings lasting longer than two continuous hours call for the use of two or more interpreters. The length of time you are able to maintain accuracy varies to some degree depending on the complexity and intensity of the proceedings and whether the source language material is being read or is delivered extemporaneously. Ideally, interpreters should trade off every 20–30 minutes, thus rotating their respective roles throughout the proceeding.

**Commentary** This is particularly true during trials and evidentiary hearings. Team interpreting not only provides periodic relief to prevent fatigue, one potential cause of interpreter error, but it also allows for the presence of a second language expert in the event of challenges to interpretation at the witness stand. Moreover, because we cannot

realistically know in advance every word or phrase that will arise, research of reference sources during a trial is handled by the second interpreter, who will also take care of any problems that may arise with electronic equipment. (See “State-of-the-Art Technology.”)

An equally compelling reason for providing at least two interpreters relates to the dual role a lone interpreter must perform when providing simultaneous interpreting of the proceedings for a defendant in a criminal matter. In the United States such defendants have a right to due process, which includes the right to see and hear all evidence and witnesses presented against them.<sup>1</sup> When you, the interpreter, work alone during a hearing or trial, you are unwittingly thrust into the dual role of being both proceedings interpreter and defense interpreter. As such, you must, on demand switch from interpreting the proceedings to assisting defense counsel to speak with his or her client, even during the proceeding. Thus, the defendant fails to hear the testimony taking place while consulting with his or her attorney. Contrast this to the English-speaking defendant who still hears the proceedings in the background while speaking with his counsel, allowing the English-speaker to be “present” during his entire trial. Working in a team allows the interpreter to continue interpreting the proceedings for the defendant while the second interpreter assists during the attorney-client discussions at the defense table.

## AUDIBILITY

Part of proper working conditions for the court interpreter is the ability to hear everything in the courtroom. If someone is speaking too fast to follow or too softly to hear, or if there is some interference such as a loud noise outside the courtroom, you should inform the court. If an attorney is addressing the jury and has his or her back to you, for example, you should call the court’s attention to the problem.

## INSTRUCTIONS TO PARTIES

Section 18.1(a) of the California Standards of Judicial Administration, effective January 1, 1999, provides that in interpreted proceedings the court or the court’s designee should instruct the participants on the procedure to be followed, including instructions to interpreters and counsel. However, most courts operate under a great deal of pressure and time constraints, and this seldom happens. It is up to you to become familiar with the contents of section 18.1 and to make sure that you have the opportunity to acquaint yourself with the witness’s speech traits and to instruct him or her about the procedure to be followed. **You should always ask counsel to be present during the preappearance interview.** You might even politely inquire whether counsel wishes to instruct the witness.

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<sup>1</sup> See *People vs. Aguilar* (1984) 35 Cal. 3d 785, 790.

There may be occasions when time and circumstances do not allow for a preappearance interview. In that case, should difficulties arise as a result of there having been no opportunity to instruct the witness, politely request permission from the court to do it.

## CLERICAL WORK

Regarding clerical work by interpreters, Dueñas González, Vásquez, and Mikkelsen state: “In general, court interpreters should perform only those functions that are directly related to interpreting. They should not engage in clerical work or other non-related duties. In busy courtrooms, however, especially during proceedings such as arraignments or traffic court where many cases are being processed at once, interpreters are sometimes asked to help distribute documents to non-English speakers, to help them fill out forms, or to direct people to other offices” (*Fundamentals of Court Interpretation: Theory, Policy and Practice*, 1991, p. 502).

These duties are better suited to be performed by the paralegal profession. You should, in any case, be aware of the dangers involved and bring them to the attention of court management. Dueñas González et al. further point out “the problems inherent in this deviation from the strict function of interpreting . . . : (1) Interpreters will ultimately be held accountable for work that they are not qualified for and which is not within their function. This activity will distract from the optimum performance of their legitimate duties. (2) They may appear to have authority and training that they do not have, and people may jump to false conclusions about their function; interpreters are often mistaken for attorneys in such proceedings because they are seen addressing many defendants in an official manner, asking them questions about matters such as how they intend to plea. (3) There is a lesser danger that the interpreter may begin to accept this false role by not setting boundaries, and that would perpetuate the problem” (*Fundamentals of Court Interpretation: Theory, Policy and Practice*, 1991, p. 502).

## INSTRUCTIONS NOT TO INTERPRET

Interpreters working in the courts for a number of years certainly must have experienced working with an attorney who instructed them not to bother interpreting jury instructions or a defendant who requested that they not interpret the testimony of a witness. If you have not had that experience yet, you probably will. Keep in mind that you are to **interpret at all times during the proceeding** for a non-English-speaking defendant. Any deviation from that may create a due process issue and may constitute a violation of the Code of Ethics on your part and endanger your certification renewal. Anytime an attorney or defendant requests or instructs you not to interpret, you should request that counsel inform the court so that the judge may order it on the record.

## DOCUMENTS

Anytime an attorney hands a document to a non-English-speaking witness who is sitting at the witness stand, you **should not** take it upon yourself to read it or describe it in any way. It is best for you to wait for instructions to read it

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to the witness into the target language. If during testimony a witness suddenly takes out a document and hands it to you, you should hand it to the attorney or place it on the counter of the witness stand. It is up to the attorney to describe the document for the record and to direct you, with the court's approval, to read it into the record if it becomes necessary.

## CULTURAL AND/OR LINGUISTIC EXPERTISE

One of the hallmarks of a professional is the ability to recognize when a given question lies beyond his or her expertise. As a court interpreter your function is not that of an anthropologist, a linguist, or a psychologist, and therefore you should not be considered an expert on the culture of the non-English-speaking defendant or witness. Therefore, you should not volunteer information or be called to the witness stand to testify about cultural practices referred to in testimony. Authorities in the related fields of knowledge should be consulted in such matters.

Even though you are a language expert and have language expertise, you should not allow this expertise to place you in the uncomfortable position of testifying outside your field of knowledge. Expert testimony, for instance, as to whether a non-English speaker has clearly understood a police officer's questions as uttered in the foreign language is clearly beyond an interpreter's reach and expertise. Complex specialized testing tools may be required, and special training and knowledge in evaluating test results are necessary to reach conclusions based on an individual's test performance. A psychologist, for example, might be better suited to provide this kind of testimony.

# CONTINUING EDUCATION AND DUTY TO THE PROFESSION

A court interpreter should, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. A court interpreter should seek to elevate the standards of performance of the interpreting profession.

It is impossible to predict what subject matters will come up during the course of a trial or other legal proceeding. In a single case there may be expert witnesses testifying about ballistics tests, autopsies, and blood types, while key witnesses from a variety of countries testify using street slang, and attorneys quote Shakespeare in their oral arguments. Therefore, it is imperative that you have a solid grounding in every aspect of your working languages and that you give top priority to constantly upgrading your skills.

## FAMILIARITY WITH THE CASE

For complete accuracy, it is helpful for you to familiarize yourself with the facts involved in the case. You may do this by perusing documents such as police reports and transcripts of preliminary hearings. The realities of day-to-day courtroom activity (overcrowded dockets, unpredictable dispositions, etc.) may make this difficult, but you should stress to court personnel how important it is for you to prepare so that you can perform your duties adequately. You should ask permission to review documents such as reports and case files before the trial begins (in the case of a major trial, several days in advance so that you can obtain the appropriate technical references) in order to prepare for technical terminology and clarify ambiguous terms.

## PRETESTIMONY INTERVIEW

In the interest of ensuring complete accuracy, it is very helpful for you to have an opportunity to talk with the client before the proceeding begins. In this way, you can become accustomed to the witness's speech mannerisms and determine whether any unusual dialect, regionalisms, or technical terms will come up during testimony. You should not, however, discuss the pending proceedings outside the presence of the individual's counsel. This is also an opportunity for you to explain to the witness how the interpreting process works and to establish a few ground rules (e.g., to listen only to the interpreted question, not the English, and to pause frequently during long answers to give you a chance to interpret). In addition, you

should remind the witness that you will interpret everything he or she says, without editing or “cleaning up” the language. The witness should be instructed to address the attorney asking the questions, not the interpreter.

## TECHNICAL TERMINOLOGY

It is very difficult to memorize highly technical terms that are rarely used, so you should carry with you the specialized glossaries that you need (the opening arguments in a trial tell you what subjects will come up, and thereafter you can bring the appropriate reference materials to court). You should spend your spare time (during breaks in the proceedings, for example) reviewing these materials to make sure you know the terms that might be used.

## JURY INSTRUCTIONS

Jury instructions contain a great deal of frozen language, archaic usage, and terms of art, and present highly technical and complex legal issues. All of these factors combine to make the reading of jury instructions the most difficult type of court proceeding to interpret. Moreover, it is always more difficult to interpret for someone who is reading from a prepared text rather than speaking extemporaneously, because the pace is faster, there are fewer pauses, and the intonation is not always natural. Therefore, it is advisable to prepare ahead of time. Shortly before the end of a trial, the attorneys and judge will have agreed upon the jury instructions that will be read. At that point, you should ask for a list of the instructions so that you can read them and research any terms you do not know. Jury instructions are available in all courthouse law libraries.

## DISQUALIFICATION

There are times when very technical terminology or obscure slang is used in a case. For example, you may be asked to interpret in a case in which nautical terminology and maritime jargon will frequently come up in the testimony. If you feel you cannot do a good job without taking extra time to prepare or do research, you should request the time and resources you need. Similarly, if you discover that the witness for whom you have been called in to interpret speaks a dialect in which you are not fluent, you should inform the court. Disqualifying yourself is not something to be taken lightly; you should consider doing so only when you doubt that you have the linguistic expertise to perform adequately. Before offering your services as a court interpreter, you must be sure that



you have a solid grasp of all aspects of your working languages so that you will not encounter difficulties very often.

***Credentials and qualifications*** You should be extremely cautious about misrepresenting your qualifications and credentials in an effort to obtain work. It is a well-known fact that people have a tendency to fluff their curriculum vitae; however, as a general rule they may merely be describing the work they have performed using vague or fancy terms. Normally this work can be easily verified by a simple phone call. To ascribe to oneself credentials or qualifications one cannot prove is quite another thing. To do so in the legal system is an extremely serious matter. Once you are in the courtroom it is impossible to wing it or ad lib. People will certainly notice and your reputation and the reputation of the entire profession is at stake.

It is perfectly acceptable and recommended that you disqualify yourself from or **do not accept an assignment you feel you lack the linguistic ability or skill to perform accurately.**

It is **totally unacceptable behavior for an interpreter to claim to be court certified** when the certification is for State Administrative Hearings, or the interpreter has been certified by an interpreting agency and not the testing agency or agencies approved by the Judicial Council.

## STATE-OF-THE-ART TECHNOLOGY

Mankind is experiencing the technical revolution that will be the trademark of the last two decades of the 20th century, and preparing for the arrival of a new era. The courts, known for their desire to uphold tradition, are breaking their ties to old-fashioned systems and are finally becoming cognizant of and interested in state-of-the-art technology. Many courtrooms around the nation are being transformed by the use of new technology.

Interpreters have traditionally shied away from familiarity with technology because they have not envisioned state-of-the-art technology as something that could be useful to the profession. But times are changing and technological developments have been slowly creeping into everyone's lives and workplaces. The interpreting and translating profession has not been exempted. There are now courtrooms utilizing real-time reporting equipment; arraignments are being held via closed-circuit TV; teleconferencing is another means of holding short interpreted legal proceedings; computers and infrared transmitters are acquiring greater visibility in the courtroom; even witness interviews are being held via satellite. It is in your best interest to become familiar with state-of-the-art technology, its use, how it functions, and how to best turn it to your advantage in order to make your life a little easier.

When using wireless transmission equipment, you should make sure you know how to set it up and how to dismantle it. If you don't know how to do it, you should inform the proper person in authority and request a training session. Trying to set up equipment you are unfamiliar with could cause undue delays. Keep in mind at all times that on occasion some of this equipment could fail to operate properly. You should always test the equipment prior to the proceeding to ensure that it is functioning correctly. **If during the proceeding you become aware of any transmission problem, you should immediately inform the court that you are experiencing technical difficulties and that you need a moment to change the batteries or make any other necessary adjustments.**

***Infrared transmission equipment*** The most common state-of-the-art technology seen in the courtroom these days is the infrared wireless transmitter; this equipment is generally utilized in multi-defendant cases. Defendants are furnished with wireless headphones containing a volume control button that can easily be adjusted to fulfill the individual's volume needs. An interpreter will hold or pin the microphone to his or her lapel and simultaneously interpret the proceeding in a low voice. This arrangement provides the interpreter the opportunity of sitting anywhere in the courtroom, provided that the microphone connection has a long enough cable to allow the freedom of movement sought. Generally, additional interpreters sit near the defendants and interpret only when counsel wishes to speak to his or her client. As a team they can take turns interpreting at the mike for 20-30 minute intervals. The use of the infrared transmission equipment in this fashion helps to create an environment conducive to a more accurate translation; it helps to avoid errors caused by interpreter fatigue. One additional advantage of using this equipment is interpreter audibility. When there are fewer people speaking at the same time, audibility improves and the interpreter's ability to render a complete and accurate translation ceases to be a problem. It also reduces the volume of noise caused by several interpreters speaking at once.

***Other types of transmission equipment*** There are now a myriad of devices that can be adapted by the interpreter to function as minitransmission equipment. Most of these devices can be obtained inexpensively in electronics stores or through catalog sales. Some of the drawbacks of these devices are that either they run on batteries of which you must always carry a fresh supply, or they do not have a cord long enough to provide you with easy access to electrical outlets. In addition, the headphones are usually not wireless and are therefore attached from a wire to the transmitter, impeding the desirable ease of movement. These gadgets do, however, provide you with the ability to sit comfortably in your chair without having to lean over hour after hour in order to be closer to the defendant's ear. Beware of the fact that some judges or bailiffs, for security reasons, do not approve of having electrical wires spread all over the courtroom and occasionally do not allow the interpreter to use the transmitter. You should always be mindful not to pose any security problems. **If instructed by any officer of the court not to use the transmission device, you should not insist on it.**

***Computers in the courtroom*** As an officer of the court you may have access to any location in the courtroom. You should keep in mind that any equipment already there (i.e., computer, monitor, printer, etc.) is for the exclusive use of courtroom personnel. ***You should abstain from using it because it is not part of your duties..***

Furthermore, you should also refrain from using your portable computer in the courtroom while court is in session. The keyboard noise could be annoying and distracting to other officers of the court. You should also remember that when court is in session your attention should be focused on the proceedings so you can be ready to go before the court when your case is called.

***Computers, word-processing software, and machine translation*** Court interpreters are occasionally called upon to translate documents. Many interpreters supplement their income by doing translations for agencies, private individuals, or private firms. It behooves the interpreter to become acquainted with computer technology and computer software. Computers, when used to their potential, can be a useful tool for interpreters doing translation work; translations can be easily corrected without there being a need to retype the entire document.

Word-processing programs have a variety of capabilities that can be used by interpreters to save time, thus potentially doubling their output. Agencies or private companies may have a preference about the software to be used by translators who work for them. Before you invest in the purchase of a computer and software, you should check around to see which computer make or clone and software program have the most widespread use. Most of the software available can be used to assist you in formatting your documents so that they are ready for publication. However, if you are a computer novice, beware of the fact that learning to use software to its full potential is time-consuming at best. You should not shy away from taking some lessons at a local school or from a private tutor.

Many computer programs are now designed for machine translation purposes. If you are involved in long translation projects, you may wish to become acquainted with some of these programs and their functions, capabilities, advantages, and disadvantages.

***Transcribing equipment*** If you are now involved or are contemplating the possibility of becoming involved in tape transcription and translation, you may wish to consider investing in a transcribing machine, preferably one with a foot control pedal. This leaves your hands free to type while at the same time you have the ability to stop, rewind, restart, or make the tape move fast forward, without ever taking your hands off the keyboard. Many brands are available at different price ranges. You should look for one that not only meets your budgetary needs but also has good sound quality and allows you to make bass, treble, and speed adjustments.

## RELATIONS WITH COLLEAGUES

Maintaining good relations with your colleagues is also part of your duty to the profession. You should become acquainted with other court interpreters in your area and share information with them. This sharing of information can take place at two levels: within the professional association of interpreters and in the day-to-day activities of interpreters who work in the same court. It is

important for you to regard fellow interpreters as colleagues, not rivals. You should refrain from maligning them, even if you do not approve of their conduct or work, as this merely makes you look unprofessional and generally detracts from the image of the court interpreting profession.

## THE PROFESSIONAL ORGANIZATION

A good forum for sharing and learning is the professional association. Joining and participating actively in an association of one's colleagues is a key element of professional conduct. Professional organizations can provide the following benefits:

1. **Mutual support and solidarity:** Interpreters can meet with each other, provide emotional support, and take action to solve problems. The code of ethics drawn up by the association can provide additional orientation for interpreters who must decide how to handle difficult situations.
2. **Community education:** The organization as a whole can provide the most appropriate setting for teaching the users of interpreting services about the profession, informing them what interpreters can and cannot do. Many issues that the interpreter cannot effectively address individually in court, such as cultural misunderstandings, establishing what the proper functions of the interpreter are, and ensuring adequate working conditions for the interpreter, can be dealt with by the professional association in workshops or seminars for the legal community. A delegation from the local organization may approach court management to request facilities that might help interpreters do a better job in court, such as a better sound system or a break room.
3. **Dissemination of information:** The newsletter or journal of the professional association can keep interpreters abreast of the latest developments in the field, including legislation that affects the profession, dictionaries and other publications that become available, research, and dates of certification exams. It may also serve as a forum for discussing ethical issues and airing grievances, or it may publish terminology glossaries.
4. **Job exchange:** Meetings of the local organization can be informal clearinghouses for jobs, where freelance interpreters trade assignments that they may be unable to accommodate in their schedules. Regular attendance at these meetings provides novice interpreters with an opportunity to meet more experienced colleagues and to demonstrate an interest in self-improvement. If the more active interpreters are impressed with a new interpreter's sincerity and dedication, they may begin turning over excess assignments to him or her.

**Continuing education:** On a local, state, and national level, the interpreters' association is the best forum for the continuing education of its members. At annual conferences, special seminars, or regular meetings guest speakers who are experts in their fields can help the interpreters improve their knowledge or skills in a wide variety of areas. These gatherings can

focus on terminology, exchanging dictionaries and glossaries, and planning educational excursions.

## CONTINUING EDUCATION

Because human language is dynamic and ever-changing, it is extremely important for court interpreters to keep up with the latest changes in usage, both by the public at large and by the specialized groups for whom they interpret (the legal community, court personnel, immigrant communities, gangs, etc.).

Moreover, interpreting skills themselves require constant honing. For this reason, continuing education is a vital part of the interpreter's professional activities.

Aside from formal classroom education, field trips provide firsthand knowledge of many of the subjects that court interpreters must deal with. These excursions may be arranged by groups, such as the local interpreters' association, or individually. For example, many police forces offer ride-along programs, in which citizens may accompany police officers on routine patrols to find out how they perform their daily duties. In addition, if you are a novice interpreter, it is very important to go to court as often as possible in order to familiarize yourself with the language and procedures of the court. While there, you should obtain copies of the documents used in the courtroom (waiver forms, for instance) that you will be expected to sight translate when you are serving as an interpreter. Almost all court proceedings are public, so it is not difficult to observe the courts in action. It is not necessary to observe only interpreted proceedings; above all, you need to become familiar with the English that is spoken in the courtroom.

You also need to become familiar with the working environment of the non-English speakers for whom you will be interpreting. Testimony about the occupational setting comes up routinely in almost any type of legal proceeding, and it is difficult to interpret such testimony if you are unfamiliar with the occupation in question. For this reason, it is very helpful to see the job site in person. Although some employers are reluctant to allow public access to the workplace, others are very concerned about public relations and are happy to arrange tours. They may be particularly cooperative if they have many employees who do not speak English and it is explained to them that legal proceedings that affect their business (labor relations hearings, unemployment appeals hearings, etc.) will be conducted more efficiently and accurately if the interpreters are familiar with the job setting. If it is impossible to arrange a tour, the local interpreters' association may invite an official from one of these companies to speak to the interpreters and explain some of the technical terminology and procedures.

Another way for interpreters to learn new concepts and terminology, and to stay abreast of new developments, is to read as much and as widely as possible in all their working languages. Current periodicals such as magazines and newspapers are the most reliable source of actual language usage, as they are updated constantly. Look for articles about crimes, the court system, or law enforcement, although reading about any subject matter is always useful (you never know what an attorney will say during arguments, so you must be prepared for anything and everything).

Another good source of current language usage is novels that contain a lot of dialogue; television soap operas are also valuable in this respect. In fact, there is no written material that cannot be of some use to you, so it is a good idea to develop the habit of reading avidly during your spare time. In court, you may find that you have many idle moments between assignments, and you should always have something to read during these times provided that you either have a place to do so or that there is no objection to your doing so in the courtroom itself.

## ATTACHMENTS

## California Rules of Court

### Rule 984.4 Professional Conduct for Interpreters

#### **Rule 984.4. Professional conduct for interpreters**

(a) **[Representation of qualifications]** An interpreter shall accurately and completely represent his or her certifications, training, and relevant experience.

(b) **[Complete and accurate interpretation]** An interpreter shall use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter shall interpret everything that is said during the entire proceedings. When interpreting for a witness, the interpreter shall interpret everything that is said during his or her testimony.

(c) **[Impartiality and avoidance of conflicts of interest]** An interpreter shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. An interpreter shall disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter shall constitute a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case. An interpreter shall not engage in conduct creating the appearance of bias, prejudice, or partiality. An interpreter shall not make statements about the merits of the case until the litigation has concluded.

(d) **[Confidentiality]** An interpreter shall not disclose privileged communications between counsel and client.

(e) **[Giving legal advice]** An interpreter shall not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.

(f) **[Professional relationships]** An interpreter shall maintain an impartial, professional relationship with all court officers, attorneys, jurors, parties, and witnesses.

(g) **[Continuing education and duty to the profession]** An interpreter shall, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. An interpreter shall seek to elevate the standards of performance of the interpreting profession.

(h) **[Assessing and reporting impediments to performance]** An interpreter shall assess at all times his or her ability to perform interpreting services. If an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the court or other appropriate authority.



**(i) [Duty to report ethical violations]** An interpreter shall report to the court or other appropriate authority any effort to impede the interpreter's compliance with the law, this rule, or any other official policy governing court interpreting and legal translating.

Rule 984.4 adopted effective January 1, 1999.

# California Standards of Judicial Administration

## Section 18

### Section 18. Procedures for determining the need for an interpreter and preappearance interview

- (a) **[When an interpreter is needed]** An interpreter is needed if, after an examination of a party or witness, the court concludes that:
- (1) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or
  - (2) the witness cannot speak English so as to be understood directly by counsel, court, and jury.
- (b) **[When an examination is required]** The court should examine a party or witness on the record to determine whether an interpreter is needed if:
- (1) a party or counsel requests such an examination; or
  - (2) it appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings.
- (c) **[Examination of party or witness]** To determine if an interpreter is needed the court should normally include questions on the following:
- (1) Identification (for example: name, address, birthdate, age, place of birth);
  - (2) Active vocabulary in vernacular English (for example: "How did you come to the court today?" "What kind of work do you do?" "Where did you go to school?" "What was the highest grade you completed?" "Describe what you see in the courtroom." "What have you eaten today?"). Questions should be phrased to avoid "yes or no" replies;
  - (3) The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness).
- (d) **[Record of examination]** After the examination, the court should state its conclusion on the record, and the file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.
- (e) **[Good cause for preappearance interview]** For good cause, the court should authorize a preappearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including but not limited to: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms,

register, slang, speech patterns, or technical terms.

Sec. 18 repealed and adopted effective January 1, 1999.

## California Standards of Judicial Administration

### Section 18.1

#### **Sec. 18.1. Interpreted proceedings -- instructing participants on procedure**

**(a) [Instructions to interpreters]** The court or the court's designee should give the following instructions to interpreters, either orally or in writing:

- (1) Do not discuss the pending proceedings with a party or witness.
- (2) Do not disclose communications between counsel and client.
- (3) Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the court.
- (4) Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
- (5) Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
- (6) Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says . . .")
- (7) Direct all inquiries or problems to the court and not to the witness or counsel. If necessary you may request permission to approach the bench with counsel to discuss a problem.
- (8) Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.
- (9) Inform the court if you become fatigued during the proceedings.
- (10) When interpreting for a party at counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
- (11) Interpret everything including objections.
- (12) If the court finds good cause under rule 984.4(e), hold a preappearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the preappearance interview.
- (13) During the preappearance interview with a non-English-speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:
  - (A) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.

(B) The witness must direct all responses to the person asking the question, not to the interpreter.

(C) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.

(14) During the preappearance interview with a non-English-speaking party, give the following instructions on the procedure to be used when the non-English-speaking party is not testifying:

(A) The interpreter will interpret all statements made in open court.

(B) The party must direct any questions to counsel. The interpreter will interpret all questions to counsel and the responses. The party may not seek advice from or engage in discussion with the interpreter.

**(b) [Instructions to counsel]** The court or the court's designee should give the following instructions to counsel, either orally or in writing:

(1) When examining a non-English-speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if . . . .")

(2) If there is a disagreement with the interpretation, direct any objection to the court and not to the interpreter. Ask permission to approach the bench to discuss the problem.

(3) If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

Sec. 18.1 repealed and adopted effective January 1, 1999.

## CODE OF PROFESSIONAL RESPONSIBILITY OF THE OFFICIAL INTERPRETERS OF THE UNITED STATES COURTS

*[Taken from Fundamentals of Court Interpretation: Theory, Policy and Practice. Carolina Academic Press, 1991.]*

Certified court interpreters are highly skilled professionals who fulfill an essential role in the administration of justice and in the protection of 4th and 6th Amendment rights for non-English speaking defendants. In their capacity as officers of the court, court interpreters are bound to a professional code of ethics to ensure due process of law. The Federal Court Interpreters Advisory Board developed a Code of Ethics and Professional Responsibility for all federal court interpreters. The Board adopted the following Canons:

- Canon 1**      Official court interpreters act strictly in the interest of the court they serve.
- Canon 2**      Official court interpreters reflect proper court decorum and act with dignity and respect to the officials and staff of the court.
- Canon 3**      Official court interpreters avoid professional or personal conduct which could discredit the court.
- Canon 4**      Official court interpreters, except upon court order, shall not disclose any information of a confidential nature about court cases obtained while performing interpreting duties.
- Canon 5**      Official court interpreters respect the restraints imposed by the need for confidentiality and secrecy as protected under applicable federal and state law. Interpreters shall disclose to the court, and to the parties in a case, any prior involvement with that case, or private involvement with the parties or others significantly involved in the case.
- Canon 6**      Official court interpreters undertake to inform the court of any impediment in the observance of this Code or of any effort by another to cause this Code to be violated.
- Canon 7**      Official court interpreters work unobtrusively with full awareness of the nature of the proceedings.
- Canon 8**      Official court interpreters fulfill a special duty to interpret accurately and faithfully without indicating any personal bias, avoiding even the appearance of partiality.
- Canon 9**      Official court interpreters maintain impartiality by avoiding undue contact with witnesses, attorneys, and defendants and their families, and any contact with jurors. This should not limit, however, those appropriate contacts necessary to prepare adequately for their assignment.

- Canon 10** Official court interpreters refrain from giving advice of any kind to any party or individual and from expressing personal opinion in a matter before the court.
- Canon 11** Official court interpreters perform to the best of their ability to assure due process for the parties, accurately state their professional qualifications and refuse any assignment for which they are not qualified or under conditions which substantially impair their effectiveness. They preserve the level of language used, and the ambiguities and nuances of the speaker, without any editing. Implicit in the knowledge of their limitations is the duty to correct any error of interpretation, and demonstrate their professionalism by requesting clarification of ambiguous statements or unfamiliar vocabulary and to analyze objectively any challenge to their performance. Interpreters have a duty to call to the attention of the court any factors or conditions which adversely affect their ability to perform adequately.
- Canon 12** Official court interpreters accept no remuneration, gifts, gratuities, or valuable consideration in excess of their authorized compensation in the performance of their official interpreting duties. Additionally, they avoid conflict of interest or even the appearance thereof.
- Canon 13** Official court interpreters support other official court interpreters by sharing knowledge and expertise with them to the extent practicable in the interests of the court, and by never taking advantage of knowledge obtained in the performance of official duties, or by their access to court records, facilities, or privileges, for their own or another's personal gain.
- Canon 14** Official court interpreters of the United States courts willingly accept and agree to be bound by this Code, and understand that appropriate sanctions may be imposed by the court for willful violations.

## CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF THE TRIAL COURT

*[Taken from the Code of Professional Conduct for Court Interpreters of the Trial Court, Office of the Chief Administrative Justice, Massachusetts Trial Court. Court Interpreter Services, Boston, Massachusetts, 1988.]*

### **1.01: Nature**

A court Interpreter is the communication facilitator for the parties involved in a proceeding and as such plays a vital role in the protection of the rights of non-English speakers engaged as parties or witnesses in legal proceedings in the Trial Court Departments. The fulfillment of this role requires an understanding by the interpreter of the complexities of the task to be performed and the fundamental ethical principles and standards to be followed pursuant to M.G.L. c.221C and M.G.L. c.221, s.92A.

- (1) **Purpose.** These standards seek to:
  - (a) Assure meaningful access to all Trial Court Departments and court services for non-English speakers;
  - (b) Protect the constitutional rights of criminal defendants to the assistance of court interpreters during court proceedings;
  - (c) Ensure due process in all phases of litigation for non-English speakers;
  - (d) Ensure equal protection of the law for non-English speakers;
  - (e) Increase efficiency, quality, and uniformity in handling proceedings which involve a court interpreter;
  - (f) Encourage the broadest use of professional language interpreters by all those in need of such services within the Trial Court.
- (2) **Scope.** These standards define and govern the practice of court interpretation in the Trial Court of Massachusetts.
- (3) **Applicability.** These standards apply to court interpreters appearing:
  - (a) In any proceeding before any Trial Court of the state;
  - (b) Before any attorney or court in connection with any matter that is or may be brought before a court;

- (c) In any other activity ordered by the court or conducted under the supervision of a court.

## **1.02: Definitions**

For the purposes of this Code, the following words shall have the following meaning:

**Certified Interpreter**, an interpreter who has been duly trained and certified under the direction of the Trial Court's Coordinator of Court Interpreter Services, pursuant to M.G.L. c.221C, s.7(e).

**Consecutive Interpretation**, relaying a message from one language into another in a sequential manner after the speaker has completed a thought. The speaker may pause at regular intervals to facilitate the conveyance of his statements through the interpreter.

**Cultural Fluency**, awareness and full comprehension of cross-cultural factors including but not limited to, expectations, attitudes, values, roles, institutions, and linguistic differences and similarities.

**Interpreter**, one who is readily able to interpret spoken language, sign language, or written language.

**Qualified Interpreter**, a certified interpreter who has also passed the examination and been qualified for interpreting in federal courts, or a sign language interpreter as determined by the Massachusetts Commission for the Deaf and Hard of Hearing pursuant to G.L. 221S, 92A.

**Non-English Speaker**, a person who uses only or primarily a spoken or signed language other than English.

**Simultaneous Interpretation**, to speak contemporaneously with the speaker with minimal pauses.

**Summarize**, make a summary of the chief points or thoughts of the speaker; e.g., summary interpretation, a nonverbatim account of the statements made by the speaker.

## **1.03: Requirements**

### **(1) Accuracy**

(a) Each court interpreter shall faithfully and accurately interpret what is said without embellishment or omission while preserving the language level of the speaker to the best of said interpreter's skill and ability.

(b) Each court interpreter shall provide the most accurate form of a word in spite of a possible vulgar meaning. Colloquial, slang, obscene, or crude language as well as



sophisticated and erudite language shall be conveyed in accordance with the usage of the speaker. An interpreter is not to tone down, improve, or edit any statements.

(c) A court interpreter shall speak in a clear, firm, and well modulated voice that conveys the inflections, tone, and emotions of the speaker.

(d) A court interpreter shall not simplify statements for a non-English speaker even when the interpreter believes the non-English speaker cannot understand the speaker's language level. The non-English speaker may request an explanation or simplification if necessary to the court or counsel through the interpreter.

(2) **Impartiality.** Each court interpreter shall maintain an impartial attitude at all times and avoid unnecessary discussions with counsel, parties, witnesses, interested parties, either inside or outside the courtroom, to obviate any appearance of partiality.

(3) **Confidentiality**

(a) Each court interpreter shall guard confidential information and not betray the confidences which may have been entrusted to him by any parties concerned.

(b) Disclosures made out of the court by communication of a non-English speaker through an interpreter to another person shall be privileged communication and said interpreter shall not disclose such communication without permission of said non-English speaker; provided, however, that such non-English speaker had a reasonable expectation or intent that such communication would not be so disclosed. M.G.L. c.221C, s.4(c).

(4) **Proficiency.** Each court interpreter shall provide professional services only in matters or areas in which the interpreter can perform accurately.

(a) Each court interpreter shall continuously improve language skills and cultural fluency as well as increase knowledge of the various areas within the judiciary which may be encountered in court interpretation. An interpreter should attend workshops, seminars, conferences, or courses to keep current in the changes of the law, interpretation and translation theories and techniques, receive updates to existing glossaries of technical terms, and exchange information with colleagues.

(b) A court interpreter is responsible for having the proper legal and bilingual dictionaries readily available for consultation.

(c) A court interpreter shall withdraw from any case in which his/her performance will be adversely affected due to lack of proficiency, preparation or difficulty in understanding the speaker for any reason, including insurmountable linguistic and/or cultural differences, or complexity of conceptual or technical terms to be used in the proceedings. Such withdrawal may be made at the time of the preappearance interview with the non-English speaker, or at any other appropriate time.

**(5) Demeanor**

- (a) Each court interpreter shall maintain a low profile, speak at volumes appropriate to the context, and be as unobtrusive as possible. The positioning in the courtroom and the style of work shall contribute to maintaining a natural atmosphere as there would be if no language barrier existed.
- (b) The court interpreter shall be positioned in full view of and specially situated to assure proper communication, but shall not obstruct the view of the judge, jury, or counsel. The interpreter shall always be positioned so that the non-English speaker can hear or see everything the court interpreter says or signs and so that the interpreter can hear or see everything that is said or signed during the proceedings.
- (c) The court interpreter shall be familiar with the courtroom layout, particularly the location of the microphones for the electronic recording of the proceedings.
- (d) Each court interpreter shall appear on time and report immediately upon arrival to the clerk of the court.

**(6) Case Preparation**

- (a) Each court interpreter shall prepare for the case, whenever possible, and particularly with respect to lengthy and complex criminal and civil trials, by reviewing the case material, including the charges, police or other reports, complaints or indictments, transcript of interviews, motions, or any other documentation to be used in the case, particularly if counsel plans to quote directly from them. Such requests shall be made to the attorney processing the case with the awareness and consent of both parties. The information is to be used solely for the technical preparation of the court interpreter.
- (b) Each court interpreter shall interview the non-English speaker prior to the initial court appearance in order to instruct such speaker as to the proper role of the court interpreter during the proceeding. Approval of counsel shall be obtained by the court interpreter before attempting contact with the non-English speaker; counsel may wish to be present at the preappearance interview.
- (c) The non-English speaker will be instructed by the court interpreter as follows.
  - 1. The non-English speaker will be advised that the court interpreter will translate any statements or comments at all times.
  - 2. The non-English speaker shall be instructed not to ask direct questions of the court interpreter or initiate any independent dialogue with said interpreter including legal advice or explanations of any statement made during the proceedings. The non-English speaker shall be instructed to direct all questions to counsel or court when necessary.

3. The court interpreter shall familiarize him/herself with the speech pattern or sign language communication, cultural background, and native language level of proficiency of the non-English speaker.
4. The court interpreter shall familiarize the non-English speaker with the interpretation mode to be used and with the hand technique used in interpretation for segmenting lengthy testimony.
5. The non-English speaker shall be instructed to wait for the full interpretation of the English before responding to the question.
6. The non-English speaker shall be instructed not to maintain eye contact with the interpreter except in the case where the non-English speaker is deaf. Eye contact is crucial in this case.

(7) **Oath.** Each court interpreter shall be sworn for the record before engaging in the interpretation of a proceeding as follows, “Do you solemnly swear that you will interpret accurately and impartially to the best of your ability, in the case now pending before this court, so help you God?”

**(8) Modes of Court Interpreting**

- (a) The simultaneous mode of court interpretation requires the interpreter to speak contemporaneously with the speaker whose statements are being heard. This mode shall be used when non-English speakers are in a position of a third person vis-à-vis the proceedings, e.g., at counsel table.
- (b) The consecutive mode of court interpretation requires the interpreter to allow the speaker to complete his/her thought or statement before attempting its interpretation. This mode shall be used when non-English speakers are giving testimony or when the judge, counsel, or officer of the court is in direct dialogue with such speaker.
- (c) A court interpreter shall not summarize court proceedings at any time unless instructed to do so by the court (e.g., side-bar, jury selection, charge to the jury).

**(9) Modes of Address**

- (a) Each court interpreter shall utilize the first person singular when interpreting for a non-English speaker giving testimony or in dialogue with another person. Persons addressing the non-English speaker (e.g., attorneys, judges, probation officers, clerks) shall use the second person.
- (b) A court interpreter shall address the court and identify him/herself as the interpreter using the third person singular to protect the record from confusion.

**(10) Language and/or Hearing Difficulties**

- (a) Whenever there is a word, phrase, or concept which the court interpreter does not understand, the interpreter shall so inform the court so that, at its discretion, it may order an explanation, rephrasing, or repetition of the statement. The interpreter may request time to look up an unfamiliar word in the dictionary.
- (b) Whenever the court or counsel utilizes a word, phrase, or concept which the court interpreter finds may confuse the non-English speaker, particularly when a concept has no cultural equivalent, the interpreter shall so inform the court.
- (c) Whenever a court interpreter has difficulty hearing and, therefore, interpreting, a particular speaker, or the proceeding in general, due to the noise level in the courtroom, the speaker's voice level, or because there may be more than one person speaking at the same time, the court interpreter shall so inform the court so that, at its discretion, it may order the speaker to repeat the statement, raise his/her voice, modulate better, and/or change the positioning of the interpreter in the courtroom.

**(11) Errors**

- (a) Whenever a court interpreter discovers his/her own error, he/she shall, if still at the witness stand, correct the error at once, first identifying him/herself for the record. If the error is perceived after testimony has been completed, the court interpreter shall request a bench or lobby conference with judge and counsel, explain the problem, and make the correction on the record.
- (b) Whenever an alleged error is perceived by someone other than the court interpreter, that person should, if testimony is still being taken from the stand, bring the allegation to the attention of the court. If the error occurs in a jury trial, the allegation should not be brought to the attention of the jury. A side-bar should be requested so that the matter may be brought to the attention of the court. At that time the court will determine first whether the issue surrounding the allegedly inaccurate interpretation is substantial enough to warrant correction. If the court agrees that the error could be prejudicial, then the court shall hear evidence as to what the correct interpretation should be from information submitted by both counsels, from the court interpreter (who is already an expert witness), and from any other experts selected by the judge. The judge shall make a final determination in view of the evidence as to the correct interpretation. If the determination is different from the original interpretation, then the court shall amend the record accordingly and so instruct the jury, if necessary.
- (c) A copy of the pertinent corrections to the record shall be sent to the Coordinator of Court Interpreter Services within two weeks of the identification of the error.

**(12) Difficulties While Interpreting**

- (a) Each court interpreter shall interpret the exact response of the witness or speaker even if the answer to a question is nonresponsive, leaving issues of admissibility of such response to the court and counsel.
- (b) If a witness testifying in a foreign language occasionally uses a few words in English, the court interpreter shall repeat such words for the record so that a person listening to the record proceeding may continue following the interpreter's voice. However, should the witness utter a full English response, the interpreter will not ask the witness to respond in his/her native language. Rather, the interpreter will stand back so that the parties are aware of the English response and await the court's direction.
- (c) Whenever an objection is made, the court interpreter shall interpret everything that was said up to the objection and instruct the witness by hand gesture not to speak until the court has ruled on the objection.
- (d) Whenever a serious communication problem arises between the interpreter and the non-English speaker (person is being disruptive, does not allow the interpreter to speak, etc.), or whenever there is a need to instruct the witness as to proper usage of the interpreter by such non-English speaker, the court interpreter shall bring such matter to the immediate attention of the court or counsel so that time may be allowed to solve such problem.
- (e) A court interpreter shall not characterize or give gratuitous explanation of testimony. The court or counsel will request clarification from the non-English speaker through the interpreter when necessary. Except in the case of certain gestures or grimaces that may have a cultural significance, the interpreter shall not offer an explanation or repeat a speaker's gesture or grimace which has been seen.
- (f) A court interpreter shall not correct erroneous facts posed in questions to non-English speakers. Similarly, the interpreter shall never correct the testimony of non-English speakers, even if errors are obvious. A response of a non-English speaker shall never be inferred; e.g., if the witness is asked to clarify her/his prior answer regarding direction or place, the interpreter shall pose the question as asked and not volunteer what the interpreter thought the speaker meant.

**(13) Fatigue Factor**

- (a) If a court interpreter believes that the quality of the interpretation is about to falter due to fatigue of the interpreter, the interpreter shall so inform the court.
- (b) For any proceeding that will entail in excess of two hours of continuous simultaneous interpretation, two court interpreters should, where practical, be assigned so that they can relieve each other at periodic intervals and prevent fatigue and delays.

## **1.04: Limitations**

(1) **Substitutions and Cancellations.** A court interpreter shall not arrange directly with the court or counsel for a substitute in cases to which he/she has been assigned. Rather, a 24-hour cancellation notice shall be given to the Coordinator of Court Interpreter Services who will arrange for a substitute. Sign Language Interpreters shall report to the Court Interpreter Referral Specialist at the Mass. Commission for the Deaf and Hard of Hearing.

(2) **Availability of Court Interpreter.** A court interpreter shall not leave the courtroom until the proceedings are terminated or he/she is excused by the presiding judge, clerk-magistrate, or their designee. During brief recesses, an interpreter shall be available to court and counsel as necessary.

### **(3) Conflicts of Interest**

(a) A court interpreter shall not engage in nor have any interest, direct or indirect, in any business or transaction, nor incur any obligation which is in conflict with the proper discharge of official duties in the court or which impairs independence of judgment in the discharge of such duties.

(b) A court interpreter shall not derive personal profit or advantage from any confidential information acquired while acting in a professional capacity.

(c) A court interpreter shall not accept money or consideration or favors from anyone other than the court for the performance of an act they would be required or expected to perform in the regular course of assigned duties; nor shall the interpreter accept any gifts, gratuities, or favors of any kind which might be construed as an attempt to influence his/her actions with respect to the court.

(d) A court interpreter shall not use, for private gain or advantage, the court's time or facilities, equipment, or supplies, nor shall he/she use or attempt to use his/her position to secure unwarranted privileges or exemptions for him/herself or others.

(e) A court interpreter shall not serve in any proceeding in which he/she is an associate, friend, or relative of a party, of counsel for a party, or a witness; or when he/she, his/her spouse, or child are a party to the proceeding or have a financial interest or any other interest that would be affected by the outcome of the proceeding; or when he/she has been involved in the selection of counsel; or any other interest which would prevent that interpreter from being impartial.

(f) Prior to providing services in a proceeding in court, a court interpreter shall disclose on the record any services that he/she may have previously provided on a private basis to any of the parties involved in the matter, as well as anything else that could be reasonably construed as affecting his/her ability to serve impartially or as constituting a conflict of interest. This disclosure shall not include confidential information.

(g) During the course of a trial, a court interpreter shall not discuss the case with parties, jurors, attorneys, or friends or relatives of any party, except in the discharge of official function.

(4) **Public Comments.** A court interpreter shall not discuss publicly, report, or offer an opinion concerning a matter in which he/she has been engaged while such matter is pending.

(5) **Legal Advice**

(a) A court interpreter shall not give any legal advice of any kind to anyone whether solicited or not. In all instances, the non-English speaker shall be referred to counsel or to court. An interpreter may give to a non-English speaker only information regarding the time, place, and nature of the court proceedings. All other matters shall be referred to court or counsel.

(b) A court interpreter shall never act as an individual referral service for any attorney. When asked to refer a non-English speaker to an attorney, the interpreter shall refer such individual to the local bar association in civil and criminal matters if the individual indicates that he can afford private counsel or, if not, to the Committee for Public Counsel Services in criminal matters or other matters for which C.P.C.S. provides services or the local Legal Aid office with respect to all other matters.

**1.05: Compliance**

- (1) A court interpreter who discovers anything which would impede full compliance with this Code shall immediately report it to the court.
- (2) A court interpreter shall immediately report to the presiding judge any solicitations or efforts by another to induce or encourage him/her to violate any law or standard of this Code or any other provision governing interpretation promulgated by the judiciary.
- (3) A court interpreter may be removed by the court from his/her participation in a particular assignment if that interpreter is unable to interpret the proceedings adequately, including an instance where the interpreter self-reports such inability.
- (4) After due notice and hearing, a court interpreter may be removed from the list of Trial Court Interpreters by the Coordinator of Court Interpreter Services, for inadequate performance or if a judge has found good causes for his/her removal from the proceeding. The following are good causes for removal from a proceeding: (M.G.L. c.221C, s.5)
  - (a) Knowingly and willfully making false interpretation while serving in an official capacity;
  - (b) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
  - (c) Failing to follow the standards prescribed by law and the ethics of the interpreter profession.
- (5) Should a court interpreter feel harassed or intimidated by an officer of the court, the interpreter shall so inform the presiding judge.

**Regulatory Authority**  
**M.G.L c.221C.**

# CODE OF ETHICS FROM THE LOS ANGELES SUPERIOR COURT INTERPRETERS MANUAL

*[Taken from Los Angeles Superior Court Interpreters Manual, 1977.]*

## **I**

### **GENERAL RULE WITH RESPECT TO CONFLICTS OF INTEREST**

Court interpreters shall not engage in nor shall they have any interest, direct or indirect, in any business or transaction, nor incur any obligation which is in substantial conflict with the proper discharge of their official duties in the court or which impairs their independence of judgment in the discharge of such duties.

## **II**

### **ACTIONS AND CONDUCT**

Court interpreters shall not only be impartial and devoted to the best interest of the court, but shall so act and conduct themselves, both inside and outside the court, as not to give occasion for distrust of their impartiality or of their devotion to the court's best interest.

## **III**

### **FAVORS AND GRATUITIES**

Court interpreters shall not accept money or other consideration or favors from anyone other than the court for the performance of an act which they would be required or expected to perform in the regular course of assigned duties; nor shall court interpreters accept any gifts, gratuities, or favors of any kind which might reasonably be interpreted as an attempt to influence their actions with respect to the court.

## **IV**

### **USE OF CONFIDENTIAL INFORMATION**

Court interpreters shall not disclose confidential information acquired by or available to them in the course of their duties in the court; nor shall court interpreters disclose privileged communication between attorney and client.

## **V**

### **USE OF COUNTY TIME FOR PRIVATE GAIN**

Court interpreters shall not use, for private gain or advantage, their county time or the court's facilities, equipment, or supplies, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.



## **STANDARDS OF CONDUCT AND PROFESSIONAL RESPONSIBILITIES**

### **Major Roles of the Court Interpreter**

The two most significant functions of the court interpreter occur in the courtroom where interpretation is provided for the non-English speaking witness on the stand or for the defendant at counsel table.

The former role is clearly defined in Section 752 of the California Evidence Code. Therein the law states that a court interpreter shall be sworn to interpret “when a witness is incapable of hearing or understanding the English language or is incapable of expressing himself in the English language so as to be understood directly by counsel, court, and jury.” Section 752(b) further defines this kind of interpreter as an expert witness through reference to Section 730 et seq. of the Evidence Code. However, by the very nature of this role, the court interpreter is further obligated to aid in discharging the affairs of the court in an unbiased and expeditious manner. In this sense, his obligations surpass the normal function of the expert witness, and they approximate the services of the court clerk or other attachés. These sections of the Evidence Code indicate the requirements for the use of an interpreter in both civil and criminal matters.

The other primary need for an interpreter in the courtroom arises when a non-English speaking defendant must be apprised of the nature of the proceedings and communicate with counsel. Article 1, Section 14 of the California Constitution, as amended in November 1974, mandates that “a person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.” This section is the source of the defendant’s right to an interpreter. Consistent with this constitutional right, the interpreter appointed for a non-English speaking defendant should be required to faithfully interpret all English testimony to the defendant and all communication between attorney and client without disrupting the proceedings in court. Concurrent with these duties, an interpreter should assist in expediting court proceedings. As such, the court has a clear interest to see that the non-English speaking defendant is provided with an interpreter at all stages of the proceedings, and further, that such interpreter executes his professional responsibilities properly.

### **Preappearance Witness Interview**

Whenever possible, the appointed court interpreter should interview the non-English speaking witness prior to the initial court appearance. Approval of counsel should be obtained by the interpreter before attempting contact with the witness.

1. The witness should be advised of the procedure to be used and familiarized with the interpreter’s technique before taking the stand.
2. The interpreter should briefly familiarize himself with the speech patterns of the witness.
3. The interpreter should determine whether any technical vocabulary will be used during the testimony.

4. The witness should be admonished not to initiate any independent dialogue with the interpreter, but rather to direct all statements to the court or to counsel.
5. The interpreter may wish to establish a method by which he can unobtrusively interrupt lengthy testimony if necessary, for example, by the use of hand gestures. Such action might be taken where the interpreter wishes to have the testimony segmented to avoid confusion.
6. The witness should be instructed to maintain eye contact with the judge or with counsel but not with the interpreter.

### **Conflicts of Interest**

In all instances, the interpreter should disclose to all parties concerned, and in court interpreting to the trial judge, any actual conflict of interest or the appearance of any conflict of interest. Any condition which impinges on the objectivity of the interpreter or affects his professional independence constitutes a conflict of interest. A conflict may exist whenever any of the following occur:

1. The interpreter is acquainted with any party to the action.
2. The interpreter has, in any way, an interest in the outcome of the case.
3. The interpreter is perceived as not being independent of the adversary parties (or related agencies in criminal cases).

In addition, the court should be informed whenever the interpreter and any witness are previously acquainted.

### **Confidentiality**

1. The interpreter should keep confidential all matters interpreted and all conversation overheard between counsel and client.
2. The interpreter should not discuss a case pending before the court.

### **Giving Legal Advice**

1. The interpreter should never give legal advice of any kind to the non-English speaking person or to any person, whether solicited or not. In all instances, the non-English speaking person should be referred to counsel. The interpreter may give general information to a non-English speaking person regarding the time, place, and nature of court proceedings. However, in matters requiring legal judgment, the individual should be referred to an attorney.

3. The interpreter should never function as an individual referral service for any attorney or attorneys. This kind of activity has the appearance of impropriety and is forbidden by attorneys' Canons of Ethics. When asked to refer a non-English speaking person to an attorney, the interpreter should refer such individual to the local county or city Attorney Referral Service in civil matters, or to the Public Defender's Office in criminal matters.

### **Professional Relationship With Individuals Needing Interpretation**

1. The interpreter should maintain a professional relationship with the non-English speaking persons needing his services. While rapport built on compassion and understanding should be established, every effort should be made to avoid personal dependency on the interpreter.
2. The interpreter should strive for a professionally detached relationship. Displays of emotion by the interpreter should be avoided.
3. The interpreter and non-English speaking person should refrain from addressing one another on a first name basis. Familiar forms such as the "tú" form in Spanish should be avoided.

### **Opinions Provided to Public Media**

A court interpreter should not render opinions or make subjective statements of any kind through, or in connection with, a newspaper, radio, or other public medium regarding any legal matter in which the interpreter has interpreted or served as a translator of written material of a legal nature.

### **The Interpretation of Special Terminology**

In all instances where knowledge of special terminology is needed for a particular case, or the interpreter is required to comprehend dialectical forms or regionalisms, the interpreter should critically assess his ability to perform and should disqualify himself he is not fully capable of providing a high-quality, professional interpretation.

### **Fees**

1. The interpreter should maintain a fair and reasonable schedule of fees in civil cases, particularly if referred to clients by the court.
2. The interpreter should never accept gratuities of any kind.
3. A per-diem interpreter should maintain accurate and detailed time records of services rendered.

### **Continuing Education and Duty to the Profession**

1. The interpreter should be responsible for engaging in continuing education to keep himself informed of matters which can improve his performance.
2. The individual interpreter should be responsible for elevating the standards of performance of the interpreting profession and should seek to maintain a professional relationship with all court officers and legal personnel.

### **Supplemental Rules for Interpreters of Witness and Defendant Testimony**

1. The interpreter should appear on time and report, immediately upon arrival, to the court clerk or other designated official.
2. The interpreter should wear appropriate clothing for court and be well groomed.
3. When asked, the interpreter should provide his true and correct name to the court reporter, and the language to be interpreted.
4. The interpreter should be sworn for the record and should affirm the prescribed oath.
5. The interpreter should not leave the courtroom until the proceedings are officially terminated or he is officially excused.
6. The interpreter should develop a compendium of standard phraseology for handling interpretation of often, repeated portions of proceedings such as the administering of rights, oath, voir dire, and standard judicial admonishments.
7. If the interpreter believes that the quality of his interpretation is faltering owing to, for example, fatigue, the court should be so informed.
8. Proper names should not be interpreted but, instead, left in their original language.
9. The interpreter should not emulate the gestures made by the witness. Physical emotions express different meanings in each language.
10. The witness' name should be spelled for [the] benefit of those in attendance, particularly the court reporter.
11. The interpreter must provide an accurate interpretation of what is said, without embellishments, omissions, or editing (i.e., epithets should be interpreted as well). Non-English speaking witnesses should be informed before the proceedings that their testimony will be interpreted in its totality. An interpreter should never hesitate to provide the most accurate form of a word in spite of a possible vulgar meaning.

12. As close to a verbatim and literal interpretation as possible should be made. When idioms or other terms are used that are not codefinitonal and the speaker's meaning is clear to the interpreter, the closest appropriate term or phrase should be substituted. If a term or phrase can reasonably take on more than one meaning, or if the interpreter is unfamiliar with the term or phrase, the interpreter should inform the court of this fact. With the court's permission, the interpreter may inquire further of the speaker to determine an exact meaning. The interpreter should bear in mind that lengthy conversations with a witness can lead to suspicion and distrust of the interpreter.
13. To avoid the appearance of prejudice, the interpreter should avoid unnecessary discussions with counsel, the parties to the action, criminal defendants, witnesses or other interested parties inside or outside the courtroom.
14. The interpreter must never correct erroneous facts posed in questions to non-English speaking witnesses. Conversely, the interpreter must never correct the testimony of non-English speaking witnesses even if the errors are obvious. The interpreter must never infer a response of the non-English speaking witness. For example, if the witness is asked to clarify his prior answer regarding direction or place, the interpreter should pose the question as asked and not volunteer what the interpreter thought the witness meant.
15. If counsel or the court utilize a term or phrase which the interpreter believes may confuse the non-English speaking witness, the interpreter should so inform the court. These instances may arise when a particular concept is unknown in the witness's native culture or when certain English terms are ambiguous in translation (e.g., "you" can be either a singular or plural referent in Spanish).
16. The interpretation should be conducted in the first person. That is, to the question, "State your name," the correct response by the interpreter is "My name is John Doe," not "He says his name is John Doe."

### **Rules for Interpreting for Defendant at Counsel Table**

1. While interpreting at counsel table, the interpreter should speak only loud enough to be heard by the defendant and counsel.
2. The interpreter should utilize the simultaneous method of interpretation at counsel table whenever a witness is testifying in a language other than that of the defendant.
3. At the request of the defendant, and thereafter only by stipulation among counsel, and with the consent of the court, the interpreter may use the summary method of interpretation only on the following occasions:
  - a. To inform the defendant of the nature of general procedural discussions between court and counsel;

- b. For complicated and lengthy testimony by an expert witness if the summary method will inform of such testimony more clearly and more expeditiously than the simultaneous method.
- 4. If a serious communication problem arises between the interpreter and the defendant, the interpreter should bring such matter to the immediate attention of defense counsel who may then request that the court allow time to resolve such problem.

## WHAT COURT INTERPRETERS WOULD TELL YOU IF THEY WERE HERE

*[Taken from Court Interpreting, Legal Translating and Bilingual Services Section, New Jersey Administrative Office of the Courts, September 6, 1988 (revised October 25, 1988; November 18, 1988; February 9, 1989).]*

1. Take some time to become familiar with my profession. I'd like very much for you to understand the professional services I am responsible for rendering. When you do that, you will be more likely to respect and treat me as a professional. You will be less likely to view me as a glorified clerk or someone of dubious professional (certainly not equal to court reporters!) standing. It may be a helpful guide if you would treat me the way you tend to treat your reporter or any officer of the court.

Once you understand my job better, here are some things you will no longer do. Please understand that this isn't just me talking. The following examples represent the best thinking of judges, lawyers, and court administrators—as well as professional interpreters, of course—who have pondered the role of the interpreter in great depth. These examples are based on the Code of Professional Responsibility I'm expected to follow.

- A. Don't ask me to explain or restate what you or anyone else says. I can only put into another language exactly what a person has said.
- B. Don't allow attorneys appearing before you to ask me to explain or restate what someone says. When I decline to perform this task for them, please support me and do not expect me to violate the Code.
- C. Don't ask me to take the person(s) for whom I'm interpreting to an office, counter, etc.
- D. Don't let two or more people talk at the same time. There's no way I can interpret everything that's being said!
- E. Don't ask me not to interpret something. I'm professionally and ethically bound to interpret everything that's said.
- F. Don't forbid me to interpret simultaneously during a proceeding because it interferes with your concentration or otherwise bothers you. There are many situations in which I'm professionally, ethically, and legally bound to interpret in the simultaneous mode. If my whispered simultaneous interpreting gets too loud, respectfully ask if I can speak more quietly. I'll do my very best to be as unobtrusive as possible.

G. When an attorney or someone else alleges that I have made an error in interpretation, don't automatically assume that I have made one. Remember that the attorney is in an adversary relationship and I am not. I do make mistakes sometimes and I will be the first person to admit a mistake when I recognize one. But ask me if I agree with an attorney's allegation before concluding that I have actually made a mistake. As a neutral party and a linguist, I should have more credibility before the court than virtually any attorney on such matters.

H. Don't talk to me when you are really talking to a witness, defendant or someone else. If you say, "Ask him if . . ." or "Tell him that. . ." remember that I am required to say exactly that in the interpretation or to remind you to talk directly to the person you are addressing. If I do the former, the person with whom you are attempting to communicate will often be confused. If I do the latter, you may get upset.

2. Avoid rapid-fire delivery of what to you is very routine material and help attorneys avoid excessively fast speech. Understand that when we are interpreting into other languages, it is often the case that it will take more words for me to convey a message accurately and completely. Be patient and understanding if I have to keep reminding you or others to slow down so I can do my job, too.
3. I need breaks every bit as much as your reporters do, maybe even more. I am often the only person in the courtroom who is talking all of the time. While everyone else is only having to understand what is being said, I have to both understand it and put it into another language. This is intensely demanding work.

Furthermore, if the proceeding I am interpreting is a proceeding which involves simultaneous interpreting for more than an hour, two interpreters should be assigned to the case. We should be able to switch off every 30 minutes or so.

4. Please make efficient use of my services. I have other commitments to attend to when I finish interpreting for the case before you for which you have summoned me. Take my case as quickly as possible in order to prevent incurring the extra costs of having me wait and inconveniencing the other courts or court support services that may be waiting for my services.
5. Understand the human limits of my job. My main interest here is that you comprehend the fact that no person knows all of the words in any one language, much less all of the words of all the dialects of that language—and, much, much less, all of the words of all the dialects of two languages (not to mention the professional and legal jargon for which there is often no equivalent at all in other languages)! Sometimes I need to obtain clarification. It is unethical for me to make up an interpretation or guess at an interpretation of something I do not understand. Instead of viewing such a request as casting doubt upon my professional credentials, consider viewing it in terms of my commitment to accuracy.
6. Many of my colleagues are not very well qualified and want very much to improve their interpreting skills. They need support for attending courses and professional seminars. Please do everything you can to enable on-the-job training, so do not hesitate to take them — and me, sometimes — under your wing when there is something we need to learn.



7. Before you expect me to start interpreting for a given matter, give me the opportunity to find out what the nature of the proceeding is, who is involved, etc. Furthermore, let me speak to the linguistic minority person briefly to size up the person's communicative style and needs so I can make whatever adjustments may be necessary and appropriate to improve communication—or perhaps even discover that I might not be able to communicate sufficiently with the individual! Like any other professional, the better prepared I am, the better job I'll be able to do and the smoother the whole proceeding will flow.

## **LIST OF INTERPRETER/TRANSLATOR TRAINING PROGRAMS**

**The following is a list of universities that offer court interpreter training programs. This is not a complete list. You are encouraged to call your local universities and inquire if they offer court interpreter training programs. This list does not constitute an endorsement of these programs, but is provided for information only.**

### **UNIVERSITY OF CALIFORNIA**

#### **UC Berkeley Extension**

1995 University Avenue #7002  
Berkeley, CA 94720-7002  
510-642-1062 FAX: 510-643-0599  
<http://www.unex.berkeley.edu:4243/>

#### **UC Davis Extension**

Davis, CA 95616-8727  
800-752-0881  
<http://universityextension.ucdavis.edu>  
Spanish/English Court Translation and Interpretation courses.

#### **UCLA Extension**

10995 Le Conte Avenue  
Los Angeles, CA 90024  
310-825-9082  
[www.unex.ucla.edu](http://www.unex.ucla.edu)  
Legal Translation and Interpretation Certificate Program in Spanish/English, Chinese/English (Mandarin and Cantonese), and Korean/English programs.

#### **UC Irvine Extension**

Attn.: Legal Programs  
P.O. Box 6050  
Irvine, CA 92616  
949-824-1228  
[www.unex.uci.edu](http://www.unex.uci.edu)  
Spanish/English Legal Interpretation courses. One-year certificate program.

#### **UC Riverside Extension**

1200 University Ave., Rm. 333  
Riverside, CA 92616  
909-787-5801 ext. 1624  
[www.unex.ucr.edu](http://www.unex.ucr.edu)  
Spanish/English Interpretation and Translation Certificate Program. One year program.

#### **UC San Diego**

Extension Dept. 0176  
9500 Gilman Dr.  
La Jolla, CA 92093-0176  
619-534-3440  
[www.unex.ucsd.edu](http://www.unex.ucsd.edu)  
Spanish/English Legal Translation and Interpretation Certificate Program. One-year program.

## **CALIFORNIA STATE UNIVERSITIES**

### **Cal State University, Fresno**

Division of Extended Education  
Office of the Dean  
5005 North Maple Avenue  
Fresno, CA 93740-0076  
209-278-0333 FAX: 209-278-0395

### **Cal State University, Los Angeles**

Office of Continuing Education  
5151 State University Drive  
Los Angeles, CA 90032-8629  
213-343-4900  
Spanish/English Certificate Program in Legal Interpretation and Translation. 1½ year program.

### **Cal State University, Northridge**

Division of English as a Second Language  
18111 Nordhoff Street - CEES  
Northridge, CA 91330-8218  
818-677-3404  
Spanish/English Court Interpreting Courses.

### **San Diego State University**

College of Extended Studies  
Certificate Programs  
San Diego, CA 92182  
619-594-5152  
Certificate Program in Court Interpreting.

### **San Francisco State University**

The New Downtown Center  
425 Market St.  
San Francisco, CA 94105  
415-904-7770  
Spanish/English Legal Interpretation Certification Program.

## **COMMUNITY COLLEGES**

### **American River College**

4700 College Oak Drive  
Sacramento, CA 95841  
916-484-8011  
Vocational certificate in Sign Language Interpreting; A.A. degree in Sign Language Studies.

### **East L.A. Community College**

1301 Avenida Cesar Chavez  
Building J3, Room 101  
Monterey Park, CA 91754  
213-265-8793  
Spanish/English Court Interpretation and Translation Certificate Program. A year-and-a-half program.

**El Camino College**

Instructional Services Division  
16007 Crenshaw Blvd.  
Torrance, CA 90506  
310-660-3296  
Sign Language/Interpreter Training Program

**Oxnard College**

4000 South Rose Avenue  
Oxnard, CA 93033  
805-986-5830  
Sign Language Interpreter Training Program (Only)

**Riverside Community College**

4800 Magnolia Ave.  
Riverside, CA 92506-1299  
909-222-8000  
Spanish/English Court Interpretation and Translation courses.

**Southwestern College**

Business Division  
900 Otay Lakes Road  
Chula Vista, CA 91945  
619-421-6700  
Spanish/English training and continuing education classes.

**PRIVATE UNIVERSITIES, SCHOOLS & TRAINING CENTERS****Court Interpreters Training Center**

10171 Ramona Drive  
Spring Valley, CA 91977  
619-979-8344 or 619-660-5268

**International Language Consultants**

23617 Bower Cascade Place  
Diamond Bar, CA 91765  
909-860-3228  
Spanish/English Medical and Legal Interpreting courses.

**Interpreting Services International, Inc. (ISI)**

12517 Chandler Blvd. #102  
Valley Village, CA 91607  
818-753-9181 FAX: 818-753-9617

**Monterey Institute of International Studies**

International Interpretation Resource Center  
Holly Mikkelsen, Director  
425 Van Buren Street  
Monterey, CA 93940  
831-647-3553 FAX: 831-647-3560  
[www.miiis.edu](http://www.miiis.edu)  
Masters degree program in Translation and Interpretation.

**Monterey Language Academy**

200 Jefferson Street

Monterey, CA 93940

831-649-8122 FAX: 831-649-8124

[www.montereylanguage.com](http://www.montereylanguage.com)

Intensive six-week program in interpretation and translation in Arabic, Cantonese, Japanese, Korean, Portuguese, Spanish, Tagalog, Vietnamese, French, German, and Mandarin.

**National Hispanic University**

1427 Story Road

San Jose, CA 95127-3823

408-254-6900 FAX: 408-254-1369

Spanish/English Business, Legal and Medical Translation and Interpretation Certificate Program. 1-2 year program.

**Southern California School of Interpretation**

11506 Telegraph Road, Suite 208

Santa Fe Springs, CA 90670

213-666-5991 FAX: 310-348-9335

[www.interpreting.com](http://www.interpreting.com)

Spanish/English training program for interpreters at pre-certification and continuing education stages. Six month program.

**OUT OF STATE PROGRAMS****University of Arizona**

Federal Court Interpreter Certification Project

Modern Languages Building, Room 445

Tucson, AZ 85721

520-621-3687

Intensive three-week summer course in Spanish/English Court Interpreting.

**Georgetown University**

Division of Interpretation and Translation

Intercultural Center 225

Washington D.C. 20057-0993

202-687-5848

Conference Interpreting Certificate Program. One-year program.

**University of Charleston, S.C.**

Bilingual Legal Interpreting

c/o Office of Graduate Studies

Randolph Hall, 66 George Street

Charleston, SC 29424-0001

803-953-5614

M.A. in Bilingual Legal Interpreting.

## **LIST OF PROFESSIONAL INTERPRETER ASSOCIATIONS**

**The following list does not constitute an endorsement of any of these associations, but is provided for informational use only.**

### **American Translators Association - (ATA)**

1800 Diagonal Road, Suite 220  
Alexandria, VA 22314  
703-683-6100  
[www.atanet.org](http://www.atanet.org)

### **Bay Area Court Interpreters - (BACI)**

P.O. Box 5821  
Berkeley, CA 94705  
415- 905-5854

### **California Court Interpreters Association - (CCIA)**

345 So. Hwy. 101, Suite F2  
Encinitas, CA 92024  
760-635-0273  
[www.ccia.org](http://www.ccia.org)

### **California Federation of Interpreters, Inc. - (CFI)**

P. O. Box 0249  
Los Angeles, CA 90053-0249  
213-896-9408 (voice-mail message)

### **Northern California Translators Association - (NCTA)**

P. O. Box 14015  
Berkeley, CA 94712-5015  
510-845-8712

### **Southern California Translators Association - (SCATIA)**

P.O. Box 802696  
Santa Clarita, CA 91380-2696  
213-735-8341

### **The Translators and Interpreters Guild - (TTIG)**

8611 Second Avenue  
Silver Spring, MD 20910  
301-563-6450 or 800-992-0367  
FAX: 301-563-6451  
<http://ourworld.compuserve.com/homepages/ttig/>

### **National Association of Judiciary Interpreters & Translators - (NAJIT)**

551 Fifth Avenue, Suite 3025  
New York, NY 10176  
212-759-4457 FAX: 212-759-7458  
[www.najit.org](http://www.najit.org)